FEDERAL REGISTER

VOLUME 24 NUMBER 36

Washington, Friday, February 20, 1959

Title 3—THE PRESIDENT

Executive Order 10805

DESIGNATING THE CENTRAL INTELLIGENCE AGENCY AS EXCEPTED FROM CERTAIN PROVISIONS OF THE GOVERNMENT EMPLOYEES TRAINING ACT

WHEREAS section 4(b) of the Government Employees Training Act (Public Law 85–507; 72 Stat. 329) authorizes the President to except departments and agencies or any of their employees from that act or any provisions thereof other than sections 4, 21, and 22, whenever he deems such action to be in the public interest; and

WHEREAS I have determined that it would be in the public interest to except the Central Intelligence Agency from certain provisions of that act:

NOW, THEREFORE, by virtue of the authority vested in me by section 4(b) of the Government Employees Training Act, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Central Intelligence Agency is hereby designated as excepted from the following-described provisions of the Government Employees Training Act:

(a) Section 2(4), 6, 9(b)(1), 11, 12, 15, 16, and 18.

(b) The last sentence of section 5.

(c) That part of section 7 which reads "shall conform, on or after the effective date of the regulations prescribed by the Commission under section 6 of this Act, to the principles, standards, and related requirements contained in such regulations then current,".

(d) That part of section 10 which reads "in accordance with regulations issued by the Commission under authority of section 6(a)(8)."

SEC. 2. Section 2 of Executive Order No. 10800 of January 15, 1959, is hereby amended by deleting the reference to "section 5" and the reference to "section 5(b)" and by inserting in lieu thereof "section 4" and "section 4(b)", respectively.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
February 18, 1959.

[F.R. Doc. 59–1576; Filed, Feb. 18, 1959; 2:49 p.m.]

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

PART 485—SOIL BANK

Subpart—Violations Procedure

MISCELLANEOUS AMENDMENTS

The soil bank regulations applicable to violations, 22 F.R. 2411, as amended, are hereby further amended as follows:

1. Section 485.271(a) is amended by deleting the cross-reference "§§ 485.271 to 485.292 inclusive" and "therewith" and substituting therefor "this subpart" and "herewith" respectively.

2. Section 485.294n is amended by deleting the cross-reference "§ 485.284 through § 485.294j" and substituting therefor "this subpart".

(Sec. 124, 70 Stat. 198; 7 U.S.C. 1812)

Issued at Washington, D.C., this 16th day of February 1959.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 59–1531; Filed, Feb. 19, 1959; 8:49 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 319—FOREIGN QUARANTINE NOTICES

Administrative Instructions Prescribing Method of Fumigation of Oranges, Grapefruit, and Tangerines From Mexico

Pursuant to the authority conferred by § 319.56–2 of the regulations (7 CFR, 1957 Supp., 319.56–2; 23 F.R. 7166) supplemental to the Fruit and Vegetable Quarantine (Notice of Quarantine No. 56), under sections 5 and 9 of the Plant Quarantine Act of 1912 (7 U.S.C. 159, 162), administrative instructions to be

(Continued on p. 1303)

THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

CODIFICATION GUIDE—Con.

designated as 7 CFR 319.56–2e are hereby issued as follows:

§ 319.56–2e Administrative instructions prescribing method of fumigation of oranges, grapefruit, and tangerines from Mexico.

Approved fumigation with ethylene dibromide at normal atmospheric pressure, in accordance with the following procedure, is hereby prescribed as an alternate condition of entry under permit, through ports specified in the permit, for all shipments of oranges, grapefruit, and tangerines from Mexico.

(a) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with ethylene dibromide at normal atmospheric pressure in a fumigation chamber which has been approved by the Plant Quarantine Division. The chamber must be equipped with a gastight window which will permit viewing the electrically heated vaporizing pan inside the chamber. The Plant Quarantine Division will approve only those chambers which are properly constructed, satisfactorily maintained, adequately equipped, and at locations where required treatment supervision can be furnished. The treatment period shall be for 2 hours and the dosage adjusted to the chamber load, which shall not exceed 80 percent of the volume, and temperature as follows:

Load in percent of chamber volume	Dosage in ounces per 1,000 cu. ft.	
	60°–70° F.	Above 70° F.
Below 25	9	7
25 to 50	11	9
50 to 80	13	11

The ethylene dibromide, a liquid at ordinary temperatures, must be volatilized within the sealed fumigation chamber in an electrically heated vaporizing pan. The gas shall be circulated within the chamber continuously for the 2-hour exposure period by an electric fan or blower, the 2-hour period to begin when volatilization is complete. The fan or blower must be of a capacity to circulate the entire air mass within the chamber in one minute.

(2) Oranges, grapefruit, and tangerines may be waxed and packed for shipment before fumigation and fruits may be individually wrapped with conventional citrus tissue. When loaded in the fumigation chamber the boxes or containers must be stacked evenly over the total floor surface and stacks separated by at least one inch. Spacing between boxes in a stack may be required if the inspector believes such spacing is necessary to insure adequate gas circulation. Oranges, grapefruit, and tangerines contained in mesh bags or perforated polyethylene bags must be placed in field boxes or similar containers for fumigation.

(b) *Supervision of fumigation.* Inspectors of the Plant Quarantine Division will supervise the fumigation of oranges, grapefruit, and tangerines in Mexico and will prescribe such safeguards as may be necessary for the handling, packing, and transportation of the fruit from the time it leaves the treating plant until it reaches the United States port of entry, and such safeguards shall include freedom from leaves and other debris. The final release of the fruit for entry into the United States will be conditioned upon compliance with the prescribed safeguards.

(c) *Costs.* All costs of constructing, maintaining, and operating fumigation plants and facilities, and carrying out precautions prescribed for posttreatment safeguards shall be borne by the owner of the fruit or his representative.

(d) *Approval of fumigation plants.* Approval of fumigation plants in Mexico will be contingent upon compliance with the provisions of paragraph (a)(1) of this section and upon the availability of qualified personnel for assignment to supervise the treatment and posttreatment handling of oranges, grapefruit, and tangerines. Those in interest must make advance arrangements for approval of the fumigation plant and for supervision, and furnish the Director of the Plant Quarantine Division[1] with acceptable assurances that they will provide, without cost to the United States Department of Agriculture, all salaries, transportation, per diem, and other administrative and incidental expenses for the supervising inspectors, including the payment to the inspectors of additional compensation for their services in excess of 40 hours weekly, according to the rates established for the payment of inspectors of the Plant Quarantine Division.

(e) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with oranges, grapefruit, and tangerines, the Department assumes no responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

The purpose of these instructions is to specify the requirements for fumigation facilities, fumigation dosages, and necessary safeguard measures for the entry of Mexican oranges, grapefruit, and tangerines under authority of §§ 319.56–2 and 319.56–6 to prevent plant pest dissemination. These instructions provide an alternate treatment to those now authorized in administrative instructions relating to low temperature and vapor-heat treatments.

[1] Preliminary inquiries should be directed to the Regional Supervisor, Plant Quarantine Division, P.O. Box 909, 407 Federal Building, Brownsville, Tex.

These instructions therefore relieve restrictions previously imposed. In order to be of maximum benefit to importers of oranges, grapefruit, and tangerines the newly authorized procedure should be made available as soon as possible. Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure in respect to the foregoing administrative instructions are impracticable and unnecessary, and since these instructions relieve restrictions they may be made effective less than thirty days after publication in the FEDERAL REGISTER.

These administrative instructions shall become effective February 20, 1959.

(Sec. 9, 37 Stat. 318; 7 U.S.C. 162. Interprets or applies sec. 5, 37 Stat. 316; 7 U.S.C. 159)

Done at Washington, D.C., this 17th day of February 1959.

[SEAL] H. S. DEAN,
Acting Director,
Plant Quarantine Division.

[F.R. Doc. 59–1547; Filed, Feb. 19, 1959; 8:51 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[945.305 Amdt. 2]

PART 945—TOMATOES GROWN IN FLORIDA

Limitation of Shipment

Findings. (a) Pursuant to Marketing Agreement No. 125 and Order No. 45 (7 CFR Part 945), regulating the handling of tomatoes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Florida Tomato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001 et seq.) in that: (i) The amendment pertains exclusively to subparagraph (6) of § 945.305(b) which is a container regulation for tomatoes of a turning or greater degree of maturity that becomes effective March 1, 1959, and extends through June 30, 1959, and (ii) the amendment relieves restrictions by deleting subparagraph (6) of § 945.305(b).

Order, as amended. Subparagraph (6) of § 945.305(b) (23 F.R. 8697) is hereby deleted.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated February 17, 1959, to become effective upon publication in the FEDERAL REGISTER.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 59-1545; Filed, Feb. 19, 1959; 8:50 a.m.]

Chapter XI—Agricultural Conservation Program Service, Department of Agriculture

[ACP-1959-Alaska, Supp. 1]

PART 1104—AGRICULTURAL CONSERVATION; ALASKA

Subpart—1959

MISCELLANEOUS AMENDMENTS

Pursuant to the authority vested in the Secretary of Agriculture under sections 7-17 of the Soil Conservation and Domestic Allotment Act, as amended, and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959, the 1959 Agricultural Conservation Program for Alaska, approved August 8, 1958 (23 F.R. 6231), is amended as follows:

§ 1104.842 [Amendment]

1. Section 1104.842(b) is amended by substituting the words "Extension Service" for the words "experiment station" in the last sentence.

§ 1104.844 [Amendment]

2. Section 1104.844(b) is amended by designating the present wording as subparagraph (1), by substituting the words "Extension Service" for the words "experiment station" in the fourth and eighth sentences, and by adding the following subparagraph (2):

(2) In Homer County to assure successful establishment of the vegetative cover, an application of commercial fertilizer must be made at or in connection with the seeding and also in the year subsequent to the seeding. Accordingly, in the approval of this practice, provision shall be made for the needed application of commercial fertilizer on a component basis in addition to that applied at or in connection with the seeding. The application of the additional commercial fertilizer in the following program year will not be required in those cases where the county committee determines by field inspection that such application of commercial fertilizer is not essential to the establishment of the cover. The application of fertilizer shall be at the level recommended by the Extension Service or on the basis of a current soil test. Failure to apply the second application of fertilizer at the proper level, except when determined not necessary, means the practice is not completed and all cost-share payments must be refunded to the Government.

§ 1104.847 [Amendment]

3. Section 1104.847 is amended by substituting the word "constructing" for the word "drilling" in the maximum Federal cost-share paragraph.

4. A new § 1104.853 is added as follows:

§ 1104.853 Practice 13: Controlling noxious weeds.

(a) *Purpose.* Control of Canada thistle, perennial sowthistle, and other perennial weeds designated as noxious by the State ACP Development Group, as a necessary step in soil and water conservation.

(b) *Requirements.* Costs will be shared for the control of designated weeds when it is a necessary step in the establishment or improvement of permanent vegetative cover, and for the control of designated weeds on cropland where failure to control the designated weeds will make the cropland unsuited for crop production. Costs will also be shared for the control of designated weeds on land other than cropland or pasture where this is essential to prevent infestation or reinfestation of cropland or pastureland on the farm. This practice is limited to areas where the State Group determines, with the approval of the Administrator, ACPS, that weed control measures in the infested area will be carried out on an organized basis which will minimize the probability of reinfestation. The county committee will establish specifications based on the latest research findings that will insure effective control. They will include such requirements and safety measures as the State Group determines necessary for an effective program of control and to insure the sound investment of public funds. Prior inspection of the area by the county committee will be required to determine eligibility and the portion of the total cost of the measures attributable for the control of the designated weeds. Cost-sharing will be limited to those measures which are in addition to farming or treatment measures normally required to produce a crop.

(c) *Additional recommendations.* None.

(d) *Technical responsibility.* County ASC Committee.

Maximum Federal cost-share. 50 percent of the cost of approved materials, labor, and the use of equipment required for control measures.

(Sec. 4, 49 Stat. 164; 16 U.S.C. 590d. Interpret or apply secs. 7-17, 49 Stat. 1148, as amended, 72 Stat. 192; 16 U.S.C. 590g-590q)

Done at Washington, D.C., this 17th day of February 1959.

[SEAL] E. L. PETERSON,
Assistant Secretary.

[F.R. Doc. 59-1530; Filed, Feb. 19, 1959; 8:49 a.m.]

Title 14—CIVIL AVIATION

Chapter II—Federal Aviation Agency

[Amdt. 5]

PART 600—DESIGNATION OF CIVIL AIRWAYS

Alterations

This action is part of the airspace designations being made to establish a dual and direct airway system between Washington, D.C., and Richmond, Virginia, and to expedite the flow of air traffic in the Washington area. The entire action comprises the redesignation of six airways (V-157, Amber 7, V-3, Red 45, Red 19, V-155), the establishing of additional control areas, and the redesignation of two military restricted areas (R-38 and R-40).

The action taken herein involves the redesignation of Airways V-157, Amber 7, V-3, Red 45, Red 19 and V-155. This matter has been coordinated with various civilian aviation organizations, the Navy, the Army, and the Air Force, through the Air Coordinating Committee. Therefore, compliance with the notice and procedure requirements of section 4 of the Administrative Procedure Act is unnecessary. The effective date provision of section 4 is being complied with and this action will not become effective until 30 days after publication.

§ 600.107 [Amendment]

1. Section 600.107 *Amber civil airway No. 7 (Miami, Fla., to United States-Canadian Border)* is amended by changing the portion which reads: "Richmond, Va., radio range station; the intersection of the north course of the Richmond, Va., radio range and the southwest course of the Washington, D.C., radio range; Washington, D.C., radio range station;" to read: "Richmond, Va., RR; Washington, D.C., RR;" and by adding a last sentence to read: "The portions of this airway which lie within the geographic limits of, and between the designated altitudes of, the Camp A. P. Hill Restricted Area (R-40) and the Dahlgren (West) Restricted Area (R-38) shall be used only after obtaining prior approval from the Federal Aviation Agency Air Traffic Control."

§ 600.219 [Amendment]

2. Section 600.219 *Red civil airway No. 19 (Traverse City, Mich., to Norfolk, Va.)* is amended by changing the words which read: "From the intersection of the north course of the Richmond, Va., radio range and the northwest course of the Tappahannock, Va., radio range" to read: "From the INT of the south course of the Quantico, Va. (MCAS), RR and the northwest course of the Tappahannock, Va., RR".

3. Section 600.245 is amended to read:

§ 600.245 Red civil airway No. 45 (Blackstone, Va., to Lancaster, Pa.).

From the Blackstone, Va., RR via the Manakin, Va., RBN; Quantico, Va., (MCAS) RR to the INT of the north course of the Quantico RR with the northwest course of the Washington, D.C., RR, excluding that portion which lies more than 2 miles west of the north course of the Quantico MCAS RR between the Quantico MCAS RR and the INT of the north course of the Quantico RR with the northwest course of the Washington RR. From the Riverdale, Md., RBN via the Baltimore, Md., RR to the INT of the north course of the Baltimore RR and the southwest course of the Allentown, Pa., RR.

§ 600.6003 [Amendment]

4. Section 600.6003 *VOR civil airway No. 3 (Key West, Fla., to Presque Isle,*

Maine) is amended by changing the portion which reads: "Brooke, Va., omnirange station; to the Washington, D.C., terminal omnirange station." to read: "Brooke, Va., VOR; point of INT of the Herndon, Va., VOR 145° and the Washington TVOR 245° radials; to the Washington, D.C., TVOR." and by adding a last sentence to read: "The portion of this airway which lies within the geographic limits of, and between the designated altitudes of, the Quantico Restricted Area (R–37) shall be used only after obtaining prior approval from the Federal Aviation Agency Air Traffic Control."

5. Section 600.6155 is amended to read:

§ 600.6155 VOR civil airway No. 155 (Augusta, Ga., to Washington, D.C.).

From the Augusta, Ga., VOR via the Chesterfield, SC., VOR; point of INT of the Raleigh VOR 220° and the Florence, S.C., VOR 008° radials; Raleigh, N.C., VOR; Lawrenceville, Va., VOR; INT of the Lawrenceville VOR direct radial to the Richmond, Va., VOR with the Flat Rock VOR 171° radials; Flat Rock, Va., VOR; Gordonsville, Va., VOR; to the Casanova, Va., VOR. The portion of this airway which lies within the geographic limits of, and between the designated altitudes of, the Camp Pickett Restricted Area (R–44) is excluded during this restricted area's time of designation.

§ 600.6157 [Amendment]

6. Section 600.6157 is amended by changing the caption to read: *"VOR civil airway No. 157 (Key West, Fla., to Washington, D.C.)"* and by changing all after "Lawrenceville, Va., omnirange station;" to read: "Lawrenceville, Va., VOR; Richmond, Va., VOR; to the Washington, D.C., TVOR. The portion of this airway which lies within the geographic limits of, and between the designated altitudes of, the Camp Pickett Restricted Area (R–44) is excluded during this restricted area's time of designation. The portion of this airway which lies within the geographic limits of, and between the established altitudes of, the Key West Warning Area (W–173) is excluded during this warning area's established time of use. The portions of this airway which lie within the geographic limits of, and between the designated altitudes of, the Dahlgren (West) Restricted Area (R–38) and the Camp A. P. Hill Restricted Area (R–40) shall be used only after obtaining prior approval from the Federal Aviation Agency Air Traffic Control."

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85–726). Interpret or apply sec. 307; 72 Stat. 749–750)

This amendment shall become effective 0001 e.s.t. April 9, 1959.

Issued in Washington, D.C., on February 13, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59–1505; Filed, Feb. 19, 1959; 8:45 a.m.]

[Amdt. 6]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Alterations

This action is part of the airspace designations being made to establish a dual and direct airway system between Washington, D.C., and Richmond, Virginia, and to expedite the flow of air traffic in the Washington area. The entire action comprises the redesignation of six airways (V–157, Amber 7, V–3, Red 45, Red 19, V–155), the establishing of additional control areas, and the redesignation of two military restricted areas (R–38 and R–40).

The action taken herein involves the designation of a control area, which is coextensive geographically with the Dahlgren (West) Restricted Area (R–38), plus the designation of additional control area coextensive with airway V–157. This matter has been coordinated with various civilian aviation organizations, the Navy, the Army, and the Air Force, through the Air Coordinating Committee. Therefore, compliance with the notice and procedure requirements of section 4 of the Administrative Procedure Act is unnecessary. The effective date provisions of Section 4 is being complied with and this action will not become effective until 30 days after publication.

1. Section 601.1457 is added to read:

§ 601.1457 Control area extension (Dahlgren, Va.).

The airspace lying within the geographic limits of the Dahlgren (West) Restricted Area (R–38). The portions of this control area which lie between the designated altitudes of the Dahlgren (West) Restricted Area (R–38) shall be used only after obtaining prior approval from the Federal Aviation Agency Air Traffic Control.

2. Section 601.6157 is amended to read:

§ 601.6157 VOR civil airway No. 157 control areas (Key West, Fla., to Washington, D.C.).

All of VOR civil airway No. 157 including a west alternate.

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85–726). Interpret or apply sec. 307; 72 Stat. 749–750)

This amendment shall become effective 0001 e.s.t., April 9, 1959.

Issued in Washington, D.C., on February 13, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59–1506; Filed, Feb. 19, 1959; 8:45 a.m.]

[Amdt. 7]

PART 608—RESTRICTED AREAS

Alterations

This action is part of the airspace designations being made to establish a dual and direct airway system between Washington, D.C., and Richmond, Va., and to expedite the flow of air traffic in the Washington area. The entire action comprises the redesignation of six airways (V–157, Amber 7, V–3, Red 45, Red 19 and V–155), the establishing of additional control areas, and the redesignation of two military restricted areas (R–38 and R–40).

The action taken herein involves the Navy's Dahlgren (West) Restricted Area (R–38) and the Army's Camp A. P. Hill Restricted Area (R–40), both of which require changes as a result of the redesignation of airways V–157 and Amber 7. In order to facilitate the establishing of the direct airways, the Navy at the behest of the Federal Aviation Agency has agreed to voluntarily relinquish a major portion of the Dahlgren (West) Restricted Area (R–38). Accordingly, this action reduces that restricted area geographically, as well as limits that portion of the restricted area lying within the confines of the airways to the airspace extending from the surface to 7,000 feet MSL. The balance of the restricted area will continue to extend from the surface to unlimited. However, by separate action the entire restricted area concurrently is being designated as a control area for use by air traffic when not in use by the Navy.

Henceforth the controlling agency for the Dahlgren area will be the Federal Aviation Agency. The only change required in the Camp A. P. Hill Restricted Area (R–40) is to change the controlling agency from the 2d Army to the Federal Aviation Agency. While the A. P. Hill Area will continue to extend from the surface to 22,000 feet MSL, it is contemplated that the airspace from 7,000 to 22,000 feet MSL will be relinquished by the Army for use by air traffic during approximately 90 percent of the time.

Concurrently with this action the Federal Aviation Agency has arranged through separate agreements with the Navy and the Army for the use of these restricted areas, or portions thereof, for air traffic purposes when not in use by the military. Also, the Air Force has agreed to withdraw its flight training activities from the Camp A. P. Hill area. Thus, by the entire action the use of this airspace for air traffic purposes will be greatly increased.

As indicated above, this action essentially reduces and removes restrictions heretofore existing. Therefore, it is believed to impose no additional burden on any person. In addition to being coordinated with the Army, the Navy, and the Air Force, this matter has been coordinated with various civilian aviation organizations through the processes of the Air Coordinating Committee. Under these circumstances compliance with the notice and procedure requirements of section 4 of the Administrative Procedure Act is unnecessary. However, the effective date provision of section 4 is being complied with and this action will not become effective until 30 days after publication in the FEDERAL REGISTER.

Part 608 published as a "Revision of the Part" on November 4, 1958, in 23 F.R. 8575 is amended as follows:

1. In § 608.54 the Dahlgren, Virginia, West Area (R–38) is amended by changing the "Description by Geographical Coordinates" to read: "Beginning at latitude 38°22'00", longitude 76°57'58"; thence SE to latitude 38°18'00", longitude 76°54'00"; thence ESE to latitude 38°14'40", longitude 76°43'25"; thence SSE to latitude 38°13'25", longitude 76°42'50"; thence SSE to latitude 38° 11'10", longitude 76°42'20"; thence SW to latitude 38°09'55", longitude 76°44' 00"; thence W to latitude 38°10'00, longitude 76°46'00"; thence westerly along the south shore of the Potomac River to latitude 38°16'10", longitude 76°58'50"; thence WSW to latitude 38° 13'10", longitude 77°07'00"; thence NNE to latitude 38°22'00", longitude 77°04' 00"; thence to point of beginning;" by changing the "Designated Altitudes" to read: "Surface to 7,000 feet MSL, for that portion of R–38 lying west of a line 5 statute miles east of, and parallel to, a direct line between the Richmond, Virginia, LF radio range station and the Washington, D.C., MF radio range station. The remaining portion of R–38 shall be from surface to unlimited;" and by changing the "Controlling Agency" to read: "Federal Aviation Agency (Washington ARTCC)."

2. In § 608.54 the Camp A. P. Hill area (R–40) is amended by changing the "Controlling Agency" to read: "Federal Aviation Agency (Washington ARTCC)."

(Sec. 313(a) of the Federal Aviation Act of 1958, Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85–726). Interpret or apply sec. 307(a) and 307(c), 72 Stat. 749, 750 (Pub. Law 85–726))

This amendment shall become effective on April 9, 1959.

Issued in Washington D.C., on February 13, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59–1507; Filed, Feb. 19, 1959; 8:45 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 78—BRUCELLOSIS IN DOMESTIC ANIMALS

Subpart D—Designation of Modified Certified Brucellosis-Free Areas, Public Stockyards, and Slaughtering Establishments

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 is hereby amended as follows:

1. Paragraph (q), relating to Alabama, is amended by adding Cleburne and Marshall Counties in proper alphabetical order.

2. Paragraph (s), relating to Arkansas, is amended by adding Pike County in proper alphabetical order.

3. Paragraph (t), relating to California, is amended by adding Inyo County in proper alphabetical order.

4. Paragraph (u), relating to Colorado, is amended by adding Delta County in proper alphabetical order.

5. Paragraph (v), relating to Florida, is amended by adding Columbia and Suwannee Counties in proper alphabetical order.

6. Paragraph (w), relating to Georgia, is amended by adding Dade, De Kalb, Lincoln, Randolph, Tattnall, and Twiggs Counties in proper alphabetical order.

7. Paragraph (x), relating to Idaho, is amended by adding Franklin County in proper alphabetical order.

8. Paragraph (y), relating to Illinois, is amended by adding Lawrence, McLean, and Moultrie Counties in proper alphabetical order.

9. Paragraph (z), relating to Indiana, is amended by adding Hancock and Howard Counties in proper alphabetical order.

10. Paragraph (bb), relating to Kentucky, is amended by adding Trimble County in proper alphabetical order.

11. Paragraph (ee), relating to Massachusetts, is amended by adding Norfolk and Worcester Counties in proper alphabetical order.

12. Paragraph (ff), relating to Mississippi, is amended by adding Clay, Jasper, and Jones Counties in proper alphabetical order,

13. Paragraph (gg), relating to Missouri, is amended by adding Bollinger, Dade, and Shelby Counties in proper alphabetical order.

14. Paragraph (hh), relating to Montana, is amended by removing Chouteau County, and by adding Yellowstone County in proper alphabetical order.

15. Paragraph (ii), relating to Nebraska, is amended by adding Douglas County in proper alphabetical order.

16. Paragraph (jj), relating to Nevada, is amended by adding Nye County in proper alphabetical order.

17. Paragraph (kk), relating to New York, is amended by adding Albany, Allegany, Jefferson, Chemung, Clinton, Columbia, Saint Lawrence, and Suffolk Counties in proper alphabetical order.

18. Paragraph (nn), relating to Oregon, is amended by adding Wheeler County in proper alphabetical order.

19. Paragraph (qq), relating to Tennessee, is amended by adding Decatur, Hickman, Humphreys, and Perry Counties in proper alphabetical order.

20. Paragraph (uu), relating to West Virginia, is amended by adding Braxton and Hardy Counties in proper alphabetical order.

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The amendment deletes Chouteau County in Montana from the list of areas designated as modified certified brucellosis-free areas, because it has been determined that such county no longer comes within the definition of § 78.1(i), and adds certain additional areas which have been determined to come within such definition.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 13, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 125; 9 CFR 78.16)

Done at Washington, D.C., this 16th day of February 1959.

[SEAL] R. J. ANDERSON,
Director, Animal Disease Eradication Division, Agricultural Research Service.

[F.R. Doc. 59–1548; Filed, Feb. 19, 1959; 8:51 a.m.]

Title 22—FOREIGN RELATIONS

Chapter II—International Cooperation Administration, Department of State

PART 201—PROCEDURES FOR FURNISHING ASSISTANCE TO COOPERATING COUNTRIES

Miscellaneous Amendments

ICA Regulation I is amended as follows:

In §§ 201.16(c)(2)(i), 201.18 (a)(1), (b)(1), and (c)(1), the words "Voucher SF–1146" are stricken wherever they may appear and in lieu thereof are inserted the following words "Voucher SF–1034".

(Sec. 525, 68 Stat. 856, as amended; 22 U.S.C. 1785)

L. J. SACCIO,
Acting Director, International Cooperation Administration.

FEBRUARY 16, 1959.

[F.R. Doc. 59–1551; Filed, Feb. 19, 1959; 8:51 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6366]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Adjustments Required by Changes in Method of Accounting

On December 6, 1958, notice of proposed rule making regarding the regulations for taxable years beginning after December 31, 1953, and ending after August 16, 1954, except where otherwise provided, under section 481 of the Internal Revenue Code of 1954, relating to adjustments required by changes in method of accounting, was published in the FEDERAL REGISTER (23 F.R. 9486). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so proposed are hereby adopted, subject to the changes set forth below.

PARAGRAPH 1. Section 1.481–1 is changed as follows:

(A) Paragraph (a)(1) thereof is revised.

(B) Paragraph (c)(1) thereof is revised.

PAR. 2. Section 1.481–2 is changed as follows:

(A) Paragraph (c)(3) is revised by adding at the end thereof the following sentence: "For example, if the amount of the adjustments required by section 481(a) for 1958 (the taxable year of the change) is $60,000, and the increase in taxable income is determined by the taxpayer to be $40,000, $5,000, and $35,000, computed under the new method of accounting, for the taxable years 1957, 1956, and 1955, respectively, then the amount of the adjustments to be allocated to 1955 will be the balance of the adjustments, or $15,000."

(B) Paragraph (c)(5) thereof is revised.

PAR. 3. Section 1.481–4 is changed as follows:

(A) Subdivision (ii) of paragraph (b)(1) thereof is revised.

(B) Paragraph (b)(4) thereof is revised by adding immediately after the second sentence the following sentence: "In the case of a partnership, the election shall be made by the individual partners."

(C) Paragraph (d)(3) thereof is revised.

PAR. 4. Paragraph (c) of § 1.481–6 is revised.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: February 16, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

The regulations under section 481 of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1953, and ending after August 16, 1954, except where otherwise provided, as adopted, read as follows:

Sec.
1.481 Statutory provisions; adjustments required by changes in method of accounting.
1.481–1 Adjustments in general.
1.481–2 Limitation on tax.
1.481–3 Adjustments attributable to pre-1954 Code years where change was not initiated by taxpayer.
1.481–4 Adjustments attributable to pre-1954 Code years where change was initiated by taxpayer.
1.481–5 Adjustments taken into account with consent.
1.481–6 Election to return to former method of accounting.

AUTHORITY: §§ 1.481 to 1.481–6 issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

§ 1.481 Statutory provisions; adjustments required by changes in method of accounting.

SEC. 481. *Adjustments required by changes in method of accounting*—(a) *General rule.* In computing the taxpayer's taxable income for any taxable year (referred to in this section as the "year of the change")—

(1) If such computation is under a method of accounting different from the method under which the taxpayer's taxable income for the preceding taxable year was computed, then

(2) There shall be taken into account those adjustments which are determined to be necessary solely by reason of the change in order to prevent amounts from being duplicated or omitted, except there shall not be taken into account any adjustment in respect of any taxable year to which this section does not apply unless the adjustment is attributable to a change in the method of accounting initiated by the taxpayer.

(b) *Limitation on tax where adjustments are substantial*—(1) *Three year allocation.* If—

(A) The method of accounting from which the change is made was used by the taxpayer in computing his taxable income for the 2 taxable years preceding the year of the change, and

(B) The increase in taxable income for the year of the change which results solely by reason of the adjustments required by subsection (a)(2), other than the amount of such adjustments to which paragraph (4) or (5) applies, exceeds $3,000,

then the tax under this chapter attributable to such increase in taxable income shall not be greater than the aggregate increase in the taxes under this chapter (or under the corresponding provisions of prior revenue laws) which would result if one-third of such increase in taxable income were included in taxable income for the year of the change and one-third of such increase were included for each of the 2 preceding taxable years.

(2) *Allocation under new method of accounting.* If—

(A) The increase in taxable income for the year of the change which results solely by reason of the adjustments required by subsection (a)(2), other than the amount of such adjustments to which paragraph (4) or (5) applies, exceeds $3,000, and

(B) The taxpayer establishes his taxable income (under the new method of accounting) for one or more taxable years consecutively preceding the taxable year of the change for which the taxpayer in computing taxable income used the method of accounting from which the change is made,

then the tax under this chapter attributable to such increase in taxable income shall not be greater than the net increase in the taxes under this chapter (or under the corresponding provisions of prior revenue laws) which would result if the adjustments required by subsection (a)(2), other than the amount of such adjustments to which paragraph (4) or (5) applies, were allocated to the taxable year or years specified in subparagraph (B) to which they are properly allocable under the new method of accounting and the balance of the adjustments required by subsection (a)(2), other than the amount of such adjustments to which paragraph (4) or (5) applies, was allocated to the taxable year of the change.

(3) *Special rules for computations under paragraphs (1) and (2).* For purposes of this subsection—

(A) There shall be taken into account the increase or decrease in tax for any taxable year preceding the year of the change to which no adjustment is allocated under paragraph (1) or (2) but which is affected by a net operating loss (as defined in section 172) or by a capital loss carryover (as defined in section 1212), determined with reference to taxable years with respect to which adjustments under paragraph (1) or (2) are allocated.

(B) The increase or decrease in the tax for any taxable year for which an assessment of any deficiency, or a credit or refund of any overpayment, is prevented by any law or rule of law, shall be determined by reference to the tax previously determined (within the meaning of section 1314(a)) for such year.

(C) In applying section 7807(b)(1), the provisions of chapter 1 (other than subchapter E, relating to self-employment income) and chapter 2 of the Internal Revenue Code of 1939 shall be treated as the corresponding provisions of the Internal Revenue Code of 1939.

(4) *Special rule for pre-1954 adjustments generally.* Except as provided in paragraphs (5) and (6)—

(A) *Amount of adjustments to which paragraph applies.* The net amount of the adjustments required by subsection (a), to the extent that such amount does not exceed the net amount of adjustments which would have been required if the change in method of accounting had been made in the first taxable year beginning after December 31, 1953, and ending after August 16, 1954, shall be taken into account by the taxpayer in computing taxable income in the manner provided in subparagraph (B), but only if such net amount of such adjustment would increase the taxable income of such taxpayer by more than $3,000.

(B) *Years in which amounts are to be taken into account.* One-tenth of the net amount of the adjustments described in subparagraph (A) shall (except as provided in subparagraph (C)) be taken into account in each of the 10 taxable years beginning with the year of the change. The amount to be taken into account for each taxable year in the 10-year period shall be taken into account whether or not for such year the assessment of tax is prevented by operation of any law or rule of law. If the year of the change was a taxable year ending before January 1, 1958, and if the taxpayer so elects (at such time and in such manner as the Secretary or his delegate shall by regulations prescribe), the 10-year period shall begin with the first taxable year which begins after December 31, 1957. If the taxpayer elects under the preceding sentence to begin the 10-year period with the first taxable year which begins after December 31, 1957, the 10-year period shall be reduced by the number of years, beginning with the year of the change, in respect of which assessment of tax is prevented by operation of any law or rule of law on the date of the enactment of the Technical Amendments Act of 1958.

(C) *Limitation on years in which adjustments can be taken into account.* The net amount of any adjustments described in

subparagraph (A), to the extent not taken into account in prior taxable years under subparagraph (B)—

(i) In the case of a taxpayer who is an individual, shall be taken into account in the taxable year in which he dies or ceases to engage in a trade or business,

(ii) In the case of a taxpayer who is a partner, his distributive share of such net amount shall be taken into account in the taxable year in which the partnership terminates, or in which the entire interest of such partner is transferred or liquidated, or

(iii) In the case of a taxpayer who is a corporation, shall be taken into account in the taxable year in which such corporation ceases to engage in a trade or business unless such net amount of such adjustment is required to be taken into account by the acquiring corporation under section 381(c)(21).

(D) *Termination of application of paragraph.* The provisions of this paragraph shall not apply with respect to changes in methods of accounting made in taxable years beginning after December 31, 1963.

(5) *Special rule for pre-1954 adjustments in case of certain decedents.* A change from the cash receipts and disbursements method to the accrual method in any case involving the use of inventories, made on or after August 16, 1954, and before January 1, 1958, for a taxable year to which this section applies, by the executor or administrator of a decedent's estate in the first return filed by such executor or administrator on behalf of the decedent, shall be given effect in determining taxable income (other than for the purpose of computing a net operating loss carryback to any prior taxable year of the decedent), and, if the net amount of any adjustments required by subsection (a) in respect of taxable years to which this section does not apply would increase the taxable income of the decedent by more than $3,000, then the tax attributable to such net adjustments shall not exceed an amount equal to the tax that would have been payable on the cash receipts and disbursements method for the years for which the executor or administrator filed returns on behalf of the decedent, computed for each such year as though a ratable portion of the taxable income for such year had been received in each of 10 taxable years beginning and ending on the same dates as the taxable year for which the tax is being computed.

(6) *Application of paragraph (4).* Paragraph (4) shall not apply with respect to any taxpayer, if the taxpayer elects to take the net amount of the adjustments described in paragraph (4)(A) into account in the manner provided by paragraph (1) or (2). An election to take the net amount of such adjustments into account in the manner provided by paragraph (1) or (2) may be made only if the taxpayer consents in writing to the assessment, within such period as may be agreed on with the Secretary or his delegate, of any deficiency for the year of the change, to the extent attributable to taking the net amount of the adjustments described in paragraph (4)(A) into account in the manner provided by paragraph (1) or (2), even though at the time of filing such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law. An election under this paragraph shall be made at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.

(c) *Adjustments under regulations.* In the case of any change described in subsection (a), the taxpayer may, in such manner and subject to such conditions as the Secretary or his delegate may by regulations prescribe, take the adjustments required by subsection (a)(2) into account in computing the tax imposed by this chapter for the taxable year or years permitted under such regulations.

(d) *Exception for change to installment basis.* This section shall not apply to a change to which section 453 (relating to change to installment method) applies.

[Sec. 481 as amended by sec. 29, Technical Amendments Act of 1958 (72 Stat. 1626)]

§ 1.481–1 Adjustments in general.

(a)(1) Section 481 prescribes the rules to be followed in computing taxable income in cases where the taxable income of the taxpayer is computed under a method of accounting different from that under which the taxable income was previously computed. A change in method of accounting to which section 481 applies includes a change in the over-all method of accounting for gross income or deductions, or a change in the treatment of a material item. For rules relating to changes in methods of accounting, see section 446(e) and paragraph (e) of § 1.446–1. In computing taxable income for the taxable year of the change, there shall be taken into account those adjustments which are determined to be necessary solely by reason of such change in order to prevent amounts from being duplicated or omitted. The "year of the change" is the taxable year for which the taxable income of the taxpayer is computed under a method of accounting different from that used for the preceding taxable year.

(2) Unless the adjustments are attributable to a change in method of accounting initiated by the taxpayer, no part of the adjustments required by subparagraph (1) of this paragraph shall be based on amounts which were taken into account in computing income (or which should have been taken into account had the new method of accounting been used) for taxable years beginning before January 1, 1954, or ending before August 17, 1954.

(b) The adjustments specified in section 481(a) and this section shall take into account inventories, accounts receivable, accounts payable, and any other item determined to be necessary in order to prevent amounts from being duplicated or omitted.

(c)(1) The term "adjustments", as used in section 481, has reference to the net amount of the adjustments required by section 481(a) and paragraph (b) of this section. In the case of a change in the over-all method of accounting, such as from the cash receipts and disbursements method to an accrual method, the term "net amount of the adjustments" means the consolidation of adjustments (whether the amounts thereof represent increases or decreases in items of income or deductions) arising with respect to balances in various accounts, such as inventory, accounts receivable, and accounts payable, at the beginning of the taxable year of the change in method of accounting. With respect to the portion of the adjustments attributable to pre-1954 Code years, it is immaterial that the same items or class of items with respect to which adjustments would have to be made (for the first taxable year to which section 481 applies) do not exist at the time the actual change in method of accounting occurs. For purposes of section 481, only the net dollar balance is to be taken into account. In the case of a change in the treatment of a single material item, the amount of the adjustment shall be determined with reference only to the net dollar balances in that particular account.

(2)(i) If the change in method of accounting is voluntary (that is, initiated by the taxpayer), the entire amount of the adjustments required by section 481(a) is to be taken into account in computing taxable income for the taxable year of the change, except as otherwise provided by section 481(b)(4) and (5). However, in such a case, if the portion of the adjustments which is attributable to taxable years subject to the Internal Revenue Code of 1954 increases taxable income by more than $3,000, the limitations on tax provided in section 481(b)(1) or (2) apply.

(ii) The portion of the adjustments arising from a voluntary change in method of accounting and attributable to taxable years not subject to the 1954 Code is determined in accordance with section 481(b)(4)(A) and § 1.481–4(a). If such portion increases taxable income by more than $3,000 for the first taxable year to which section 481 applies, such portion may be taken into account over the period prescribed in section 481(b)(4)(B). If the total increase in taxable income arising from the adjustments required by section 481(a) is more than $3,000 for the taxable year of the change, but the portion of such adjustments attributable to pre-1954 Code years under section 481(b)(4)(A) increases taxable income by $3,000 or less for the first taxable year to which section 481 applies, then the limitations provided in section 481(b)(1) or (2) apply to the total adjustments. On the other hand, if the portion of such adjustments attributable to pre-1954 Code years increases taxable income by more than $3,000 for the first taxable year to which section 481 applies, and the portion attributable to 1954 Code years increases taxable income by $3,000 or less for the taxable year of the change, then the portion of the adjustments attributable to pre-1954 Code years may be taken into account over the period prescribed in section 481(b)(4)(B), and the portion of the adjustments attributable to 1954 Code years is to be taken into account in the taxable year of the change.

(3) If the change in method of accounting is not voluntary (that is, not initiated by the taxpayer), then only the adjustments required by section 481(a) which are attributable to taxable years subject to the Internal Revenue Code of 1954 are taken into account in computing taxable income for the taxable year of the change. If the amount of such adjustments increases taxable income by more than $3,000 for the taxable year of the change, the limitations on tax provided in section 481(b)(1) or (2) apply.

(4) If the adjustments required by section 481(a) as a result of a change in method of accounting decrease taxable income for the taxable year of the change, such decrease is taken into account for that year and the provisions of section 481(b) do not apply. In the case of an involuntary change in method of accounting, no adjustments attribu-

table to pre-1954 Code years are taken into account, whether or not such adjustments would decrease taxable income.

(5) A change in the method of accounting initiated by the taxpayer includes not only a change which he originates by securing the consent of the Commissioner, but also a change from one method of accounting to another made without the advance approval of the Commissioner. A change in the taxpayer's method of accounting required as a result of an examination of the taxpayer's income tax return will not be considered as initiated by the taxpayer. On the other hand, a taxpayer who, on his own initiative, changes his method of accounting in order to conform to the requirements of any Federal income tax regulation or ruling shall not, merely because of such fact, be considered to have made an involuntary change.

(6) Where the total adjustments required by section 481(a) include both—

(i) An amount attributable to 1954 Code years to which the limitations on tax provided by section 481(b) (1) or (2) apply, and

(ii) An amount attributable to pre-1954 Code years of which all or a pro rata portion thereof is to be taken into account under section 481(b)(4) (A) or (B),

two separate computations of tax must be made for the taxable year of the change. The tax for such year must first be computed under section 481(b) (1) or (2) in respect of the portion of the adjustments attributable to 1954 Code years, without regard to amounts taken into account under section 481(b)(4) (A) or (B). Then the tax for such year must be computed in respect of the portion of the adjustments attributable to pre-1954 Code years, taking into account the portion of the adjustments attributable to 1954 Code years. The total tax for the taxable year of the change will be the aggregate of the tax computed under section 481(b) (1) or (2) and the increase in tax attributable to taking into account the portion of the adjustments attributable to pre-1954 Code years under section 481(b)(4) (A) or (B).

(7) For rules relating to the limitations on tax provided by section 481(b) (1) and (2), see § 1.481–2. For rules relating to the adjustments attributable to taxable years beginning before January 1, 1954, or ending before August 17, 1954, see §§ 1.481–3 and 1.481–4.

(d) In determining the amount of any item of gain, loss, deduction, or credit which depends upon gross income, adjusted gross income, or taxable income for the taxable year of the change, the full amount of the adjustments required under section 481(a) shall be taken into account for such year if such adjustments increase taxable income by $3,000 or less, or decrease taxable income. However, if the amount of the adjustments increase taxable income by more than $3,000, the provisions of section 481 (b) apply. Since section 481 (b) (1) and (2) merely provide for limitations on the tax for the taxable year of the change, the entire amount of the adjustments which is subject to section 481(b) (1) and (2) is taken into account in such year. See § 1.481–2. Where section 481(b)(4) applies and the taxpayer does not elect to have the 10-year period begin with the first taxable year beginning after December 31, 1957, the pro rata portion of the adjustments attributable to pre-1954 Code years is also taken into account in the taxable year of the change. See § 1.481–4.

(e) The provisions of section 481 shall not apply in the case of a change from an accrual method to the installment method of accounting. In such case the rules provided in section 453 shall apply. However, section 481 does apply in the case of a change from the installment method of accounting to any other method.

§ 1.481–2 Limitation on tax.

(a) *Three-year allocation.* Section 481(b)(1) provides a limitation on the tax for the taxable year of the change attributable to the adjustments required under section 481(a) and § 1.481–1 (other than the amount of adjustments to which section 481(b) (4) or (5) applies). If such adjustments increase the taxpayer's taxable income for the taxable year of the change by more than $3,000, then the tax for such taxable year under chapter 1 of the Internal Revenue Code of 1954 attributable to the adjustments shall not exceed the lesser of (1) the tax attributable to taking such adjustments into account in computing taxable income for the taxable year of the change under section 481(a) and § 1.481–1, or (2) the aggregate of the increases in tax under chapter 1 (or under corresponding provisions of prior revenue laws) which would result if the adjustments were included ratably in the taxable year of the change and the two preceding taxable years. For the purpose of computing the limitation on tax under section 481(b) (1), the adjustments shall be allocated ratably to the taxable year of the change and the two preceding taxable years, whether or not the adjustments are in fact attributable in whole or in part to such years. The limitation on the tax provided in this paragraph shall be applicable only if the taxpayer used the method of accounting from which the change was made in computing taxable income for the two taxable years preceding the taxable year of the change.

(b) *Allocation under new method of accounting.* Section 481(b)(2) provides a second alternative limitation on the tax for the taxable year of the change under chapter 1 attributable to the adjustments required under section 481(a) and § 1.481–1 which are not subject to section 481(b) (4) or (5) where such adjustments increase taxable income for the taxable year of the change by more than $3,000. If the taxpayer establishes from his books of account and other records what his taxable income would have been under the new method of accounting for one or more consecutive taxable years immediately preceding the taxable year of the change, and if the taxpayer in computing taxable income for such years used the method of accounting from which the change was made, then the tax attributable to the adjustments shall not exceed the smallest of the following amounts:

(1) The tax attributable to taking the adjustments into account in computing taxable income for the taxable year of the change under section 481(a) and § 1.481–1;

(2) The tax attributable to such adjustments computed under the 3-year allocation provided in section 481(b)(1), if applicable; or

(3) The net increase in the taxes under chapter 1 (or under corresponding provisions of prior revenue laws) which would result from allocating that portion of the adjustments to the one or more consecutive preceding taxable years to which properly allocable under the new method of accounting and from allocating the balance thereof to the taxable year of the change.

(c) *Rules for computation of tax.* (1) The first step in determining whether either of the limitations described in section 481(b) (1) or (2) applies is to compute the increase in tax for the taxable year of the change which is attributable to the increase in taxable income for such year resulting solely from the adjustments required under section 481(a) and § 1.481–1 which are not subject to section 481(b) (4) or (5). This increase in tax is the excess of the tax for the taxable year computed by taking into account such adjustments under section 481(a) over the tax computed for such year without taking the adjustments into account.

(2) The next step is to compute under section 481(b)(1) the tax attributable to the adjustments referred to in subparagraph (1) of this paragraph for the taxable year of the change and the two preceding taxable years as if an amount equal to one-third of the net amount of such adjustments had been received or accrued in each of such taxable years. The increase in tax attributable to the adjustments for each such taxable year is the excess of the tax for such year computed with the allocation of one-third of the net adjustments to such taxable year over the tax computed without the allocation of any part of the adjustments to such year. For the purpose of computing the aggregate increase in taxes for such taxable years, there shall be taken into account the increase or decrease in tax for any taxable year preceding the taxable year of the change to which no adjustment is allocated under section 481(b)(1) but which is affected by a net operating loss under section 172 or by a capital loss carryover under section 1212, determined with reference to taxable years with respect to which adjustments under section 481(b)(1) are allocated.

(3) In the event that the taxpayer satisfies the conditions set forth in section 481(b)(2), the next step is to determine the amount of the net increase in tax attributable to the adjustments referred to in subparagraph (1) of this paragraph for:

(i) The taxable year of the change,

(ii) The consecutive taxable year or years immediately preceding the taxable year of the change for which the taxpayer can establish his taxable income

under the new method of accounting, and

(iii) Any taxable year preceding the taxable year of the change to which no adjustment is allocated under section 481(b)(2), but which is affected by a net operating loss or by a capital loss carryover determined with reference to taxable years with respect to which such adjustments are allocated.

The net increase in tax for the taxable years specified in subdivisions (i), (ii), and (iii) of this subparagraph shall be computed as if the amount of the adjustments for the prior taxable years to which properly allocable in accordance with section 481(b)(2) had been received or accrued, or paid or incurred, as the case may be, in such prior years and the balance of the adjustments in the taxable year of the change. The amount of tax attributable to such adjustments for the taxable years specified in subdivisions (i), (ii), and (iii) of this subparagraph is the aggregate of the differences (increases and decreases) between the tax for each such year computed by taking into account the allocable portion of the adjustments in computing taxable income and the tax computed without taking into account any portion of the adjustments in computing taxable income. Generally, where there is an increase in taxable income for a preceding consecutive taxable year established under the new method of accounting, computed without regard to adjustments attributable to any preceding taxable year, the amount of the adjustments to be allocated to each such year shall be an amount equal to such increase. However, where the amount of the adjustments to be allocated to a prior taxable year is less than the increase in taxable income for such year established under the new method of accounting, the amount of the increase in such taxable income for purposes of determining the increase in tax under section 481(b)(2) for such year shall be considered to be the amount so allocated. For example, if the amount of the adjustments required by section 481(a) for 1958 (the taxable year of the change) is $60,000, and the increase in taxable income is determined by the taxpayer to be $40,000, $5,000, and $35,000, computed under the new method of accounting, for the taxable years 1957, 1956, and 1955, respectively, then the amount of the adjustments to be allocated to 1955 will be the balance of the adjustments, or $15,000.

(4) The tax for the taxable year of the change (determined without regard to adjustments under section 481(b)(4) or (5)) shall be the tax for such year, computed without taking any of the adjustments referred to in subparagraph (1) of this paragraph into account, increased by the smallest of the following amounts:

(i) The amount of tax for the taxable year of the change attributable solely to taking into account the entire amount of the adjustments required by section 481(a) and § 1.481–1 which are not subject to section 481(b)(4) or (5);

(ii) The sum of the increases in tax liability for the taxable year of the change and the two immediately preceding taxable years which would have resulted solely from taking into account one-third of the amount of such adjustments required for each of such years as though such amounts had been properly attributable to such years (computed in accordance with subparagraph (2) of this paragraph); or

(iii) The net increase in tax attributable to allocating such adjustments under the new method of accounting (computed in accordance with subparagraph (3) of this paragraph).

(5) In the case of a change in method of accounting by a partnership, the adjustments required by section 481 shall be made with respect to the taxable income of the partnership but the limitations on tax under section 481(b) shall apply to the individual partners. Each partner shall take into account his distributive share of the partnership items, as so adjusted, for the taxable year of the change. Section 481(b) applies to a partner whose taxable income is so increased by more than $3,000 as a result of such adjustments to the partnership taxable income. It is not necessary for the partner to have been a member of the partnership for the two taxable years immediately preceding the taxable year of the change of the partnership's accounting method in order to have the limitation provided by section 481(b)(1) apply. Further, a partner may apply section 481(b)(2) for the purpose of limiting the increase in the partner's tax attributable to the increase in the taxable income of the partnership.

(6) For the purpose of the successive computations of the limitations on tax under section 481(b) (1) or (2), if the treatment of any item under the provisions of the Internal Revenue Code of 1954 (or corresponding provisions of prior internal revenue laws) depends upon the amount of gross income, adjusted gross income, or taxable income (for example, medical expenses, charitable contributions, or credits against the tax), such item shall be determined for the purpose of each such computation by taking into account the proper portion of the amount of any adjustments required to be taken into account under section 481 in each such computation.

(7) The increase or decrease in the tax for any taxable year for which an assessment of any deficiency, or a credit or refund of any overpayment, is prevented by any law or rule of law, shall be determined by reference to the tax previously determined (within the meaning section 1314(a)) for such year.

(8) In applying section 7807(b)(1), the provisions of chapter 1 (other than subchapter E, relating to tax on self-employment income) and chapter 2 of the Internal Revenue Code of 1939 shall be treated as the corresponding provisions of the Internal Revenue Code of 1939.

(d) *Examples.* The application of section 481(b) (1) and (2) may be illustrated by the following examples. Although the examples in this paragraph are based upon adjustments required in the case of a change in the over-all method of accounting, the principles illustrated would be equally applicable to adjustments required in the case of a change in method of accounting for a particular material item, provided the treatment of such adjustments is not specifically subject to some other provision of the Internal Revenue Code of 1954.

Example (1). An unmarried individual taxpayer using the cash receipts and disbursements method of accounting for the calendar year is required by the Commissioner to change to an accrual method effective with the year 1958. As of January 1, 1958, he had an opening inventory of $11,000. On December 31, 1958, he had a closing inventory of $12,500. Merchandise purchases during the year amounted to $22,500, and net sales were $32,000. Total deductible business expenses were $5,000. There were no receivables or payables at January 1, 1958. The computation of taxable income for 1958, assuming no other adjustments, using the new method of accounting follows:

Net sales		$32,000
Opening inventory	$11,000	
Purchases	22,500	
Total	33,500	
Less closing inventory	12,500	
Cost of goods sold		21,000
Gross profit		11,000
Business expenses		5,000
Business income		6,000
Personal exemption and itemized deductions		1,600
Taxable income		4,400

Under the cash receipts and disbursements method of accounting, only $9,000 of the $11,000 opening inventory had been included in the cost of goods sold and claimed as a deduction for the taxable years 1954 through 1957; the remaining $2,000 had been so accounted for in pre-1954 Code years. In order to prevent the same item from reducing taxable income twice, an adjustment of $9,000 must be made to the taxable income of 1958 under the provisions of section 481(a) and § 1.481–1. Since the change in method of accounting was not initiated by the taxpayer, the $2,000 of opening inventory which had been included in cost of goods sold in pre-1954 Code years is not taken into account. Taxable income for 1958 is accordingly increased by $9,000 under section 481(a) to $13,400. Assuming that the tax on $13,400 is $4,002 and that the tax on $4,400 (income without the adjustment) is $944, the increase in tax attributable to the adjustment, if taken into account for the taxable year of the change, would be the difference between the two, or $3,058. Since the adjustment required by section 481(a) and § 1.481–1 ($9,000) increases taxable income by more than $3,000, the increase in tax for the taxable year 1958 attributable to the adjustment of $9,000 (i. e., $3,058) may be limited under the provisions of section 481(b) (1) or (2). See examples (2) and (3).

Example (2). Assume that the taxpayer in example (1) used the cash receipts and disbursements method of accounting in computing taxable income for the years 1956 and 1957 and that the taxable income for these years determined under such method was $4,000 and $6,000, respectively. The section 481(b)(1) limitation on tax with a pro rata three-year allocation of the $9,000 adjustment is computed as follows:

Taxable year	Taxable income before adjustment	Taxable income with adjustment	Assumed total tax	Assumed tax before adjustment	Increase in tax attributable to adjustment
1956	$4,000	$7,000	$1,660	$840	$820
1957	6,000	9,000	2,300	1,360	940
1958	4,400	7,400	1,780	944	836
Total					2,596

Since this increase in tax of $2,596 is less than the increase in tax attributable to the inclusion of the entire adjustment in the income for the taxable year of the change ($3,058), the limitation provided by section 481(b)(1) applies, and the total tax for 1958, the taxable year of the change, if section 481(b)(2) does not apply, is determined as follows:

Tax without any portion of adjustment	$944
Increase in tax attributable to adjustment computed under section 481 (b)(1)	2,596
Total tax for taxable year of the change	3,540

Example (3). (i) Assume the same facts as in example (1) and, in addition, assume that the taxpayer used the cash receipts and disbursements method of accounting in computing taxable income for the years 1953 through 1957; that he established his taxable income under the new method for the taxable years 1953, 1954, and 1957, but did not have sufficient records to establish his taxable income under such method for the taxable years 1955 and 1956. The original taxable income and taxable income as redetermined are as follows:

Taxable year	Taxable income		Increase or (decrease) in taxable income
	Determined under cash receipts and disbursements method	Established under new method	
1953	$5,000	$7,000	$2,000
1954	6,000	7,000	1,000
1955	5,500	(1)	
1956	4,000	(1)	
1957	6,000	10,000	4,000

[1] Undetermined.

As in examples (1) and (2), the total adjustment under section 481(a) is $9,000. Of the $9,000 adjustment, $4,000 may be allocated to 1957, which is the only year consecutively preceding the taxable year of the change for which the taxpayer was able to establish his income under the new method. Since the income cannot be established under the new method for 1956 and 1955, no allocation may be made to 1954 or 1953, even though the taxpayer has established his income for those years under the new method of accounting. The balance of $5,000 ($9,000 minus $4,000) must be allocated to 1958.

(ii) The limitation provided by section 481(b)(2) is computed as follows: The tax for 1957, based on taxable income of $6,000, is assumed to be $1,360. Under the new method, based on taxable income of $10,000, the tax for 1957 is assumed to be $2,640, the increase attributable to $4,000 of the $9,000 section 481(a) adjustment being $1,280, ($2,640 minus $1,360). The tax for 1958, computed on the basis of taxable income of $4,400 (determined under the new method), is assumed to be $944. The tax computed for 1958 on taxable income of $9,400 ($4,400 plus the $5,000 adjustment allocated to 1958) is assumed to be $2,436, leaving a difference of $1,492 ($2,436 minus $944) attributable to the inclusion in 1958 of the portion of the total adjustment to be taken into account which could not be properly allocated to the taxable year or years consecutively preceding 1958.

(iii) The tax attributable to the adjustment is determined by selecting the smallest of the three following amounts:

Increase in tax attributable to adjustment computed under section 481 (b)(2) ($1,280+$1,492)	$2,772
Increase in tax attributable to adjustment computed under section 481 (b)(1) (example (2))	2,596
Increase in tax if the entire adjustment is taken into account in the taxable year of the change (example (1))	3,058

The final tax for 1958 is then $3,540 computed as follows:

Tax before inclusion of any adjustment	$944
Increase in tax attributable to adjustments (smallest of $2,772, $2,596 or $3,058)	2,596
Total tax for 1958 (limited in accordance with section 481 (b)(1))	3,540

Example (4). Assume that X Corporation has maintained its books of account and filed its income tax returns using the cash receipts and disbursements method of accounting for the years 1953 through 1957. The corporation secures permission to change to an accrual method of accounting for the calendar year 1958. The following tabulation presents the data with respect to the taxpayer's income for the years involved:

Year	Taxable income under the cash receipts and disbursements method		Taxable income established under accrual method	Increase or (decrease) attributable to change	Changes in taxable income due to changes in net operating loss carryback
	Before application of net operating loss carryback	After application of net operating loss carryback			
1953	$2,000	0	(1)		$2,000
1954	4,000	$1,000	(1)		3,000
1955	(5,000)		$1,000	$6,000	
1956	80,000	80,000	77,000	(3,000)	
1957	90,000	90,000	96,000	6,000	
1958			100,000		

[1] Not established.

As indicated above, taxable income for 1953 and 1954, as determined under the cash receipts and disbursements method of accounting, was $2,000 and $4,000, respectively, and after application of the net operating loss carryback from 1955, the taxable income was reduced to zero in 1953 and to $1,000 in 1954. The taxpayer was unable to establish taxable income for these years under an accrual method of accounting; however, under section 481(b)(3)(A), increases or decreases in the tax for taxable years to which no adjustment is allocated must, nevertheless, be taken into account to the extent the tax for such years would be affected by a net operating loss determined with reference to taxable years to which adjustments are allocated. The total amount of the adjustments required under section 481(a) and attributable to the taxable years 1953 through 1957 in this example is assumed to be $10,000. The redetermination of taxable income established by the taxpayer for the taxable years 1955, 1956, and 1957 appears under the heading "Taxable income established under accrual method" in the above tabulation. The tabulation assumes that the taxpayer has been able to recompute the income for those years so as to establish a net adjustment of $9,000, which leaves a balance of $1,000 unaccounted for. In accordance with the requirements of section 481(b)(2), the $1,000 amount is allocated to 1958, the taxable year of the change. The following computations are necessary in order to determine the tax attributable to the adjustments under section 481(a):

Increase in tax attributable to inclusion in 1958 of the entire $10,000 adjustment

Tax on income of 1958 increased by entire amount of adjustment ($100,000+$10,000)	$51,700
Tax on income of 1958 without adjustment ($100,000)	46,500
Increase in tax attributable to inclusion of entire adjustment in year of the change	5,200

Year	Increase in tax attributable to adjustment computed under section 481(b)(1)			
	Amount of adjustment	Tax before adjustment	Tax after adjustment	Increase in tax liability attributable to adjustment
1953	$3,334	$46,500	$48,234	$1,734
1957	3,333	41,300	43,033	1,733
1956	3,333	36,100	37,833	1,733
Increase in tax attributable to adjustment computed under section 481(b)(1)				$5,200

Year	Increase in tax attributable to adjustment computed under section 481(b)(2)			
	Amount of adjustment	Tax before adjustment	Tax after adjustment	Increase or (decrease) in tax liability
1953	[1] $2,000	0	[1] $600	$600
1954	[1] 3,000	$300	[1] 1,200	900
1955	6,000	0	300	300
1956	(3,000)	36,100	34,540	(1,560)
1957	6,000	41,300	44,420	3,120
1958	[2] 1,000	46,500	[2] 47,020	520
Increase in tax attributable to the adjustment computed under section 481(b)(2)				$3,880

[1] Attributable to recomputations of net operating loss carrybacks determined with reference to net operating loss in 1955.

[2] Attributable to the inclusion of $1,000 in the year of the change which represents the portion of the $10,000 adustment not allocated to taxable years prior to the year of the change for which taxable income is established under the new method.

Since the limitation under section 481(b)(2) ($3,880) on the amount of tax attributable to the adjustments is applicable, the final tax for the taxable year of the change is computed by adding such amount to the tax for that year computed without the inclusion of any amount attributable to the adjustments, that is, $46,500 plus $3,880, or $50,380.

§ 1.481–3 Adjustments attributable to pre-1954 Code years where change was not initiated by taxpayer.

If the adjustments required by section 481(a) and § 1.481–1 are attributable to a change in method of accounting which was not initiated by the taxpayer, no portion of any adjustments which is attributable to pre-1954 Code years shall be taken into account in computing taxable income. For example, if the total adjustments in the case of a change in method of accounting which is not initiated by the taxpayer amount to $10,000, of which $4,000 is attributable to pre-1954 Code years, only $6,000 of the $10,000 total adjustments is required to be taken into account under section 481 in computing taxable income. The portion of the adjustments which is attributable to pre-1954 Code years is the net amount of the adjustments which would have been required if the taxpayer had changed his method of accounting in his first taxable year which began after December 31, 1953, and ended after August 16, 1954. See section 481(b)(4)(A).

§ 1.481–4 Adjustments attributable to pre-1954 Code years where change was initiated by taxpayer.

(a) *Amount of adjustments to be taken into account.* If the adjustments required by section 481(a) and § 1.481–1 are attributable to a change in method of accounting initiated by the taxpayer, the amount of such adjustments, to the extent such amount does not exceed the net amount which would have been required if the change had been made in the first taxable year beginning after December 31, 1953, and ending after August 16, 1954, shall be taken into account by the taxpayer in computing taxable income in the manner provided in section 481(b)(4)(B) and paragraph (b) of this section. The preceding sentence shall apply only if such amount would increase taxable income for such year by more than $3,000. For example, if the total adjustments amount to $19,000, and the portion of the adjustments attributable to pre-1954 Code years is $10,000 and the balance of $9,000 is attributable to taxable years subject to the 1954 Code, the adjustments shall be taken into account as follows:

(1) The portion attributable to pre-1954 Code years ($10,000) shall be taken into account in the manner provided in section 481(b)(4)(B) and paragraph (b) of this section, and the limitations provided in section 481(b)(1) or (2) will apply to the balance of $9,000; or

(2) If the taxpayer elects under section 481(b)(6) to take the adjustments attributable to pre-1954 Code years into account under section 481(b)(1) or (2), the limitations provided in section 481(b)(1) or (2) will apply to the entire amount of the adjustments ($19,000).

The provisions of section 481(b)(4), section 481(b)(6), and paragraphs (b), (c), (d), and (e) of this section shall not apply with respect to changes in methods of accounting made in taxable years beginning after December 31, 1963.

(b) *Years for which amounts are to be taken into account.* (1) If the amount of the adjustments determined in accordance with section 481(b)(4)(A) and paragraph (a) of this section would increase the taxable income of the taxpayer for the first taxable year to which section 481 applies by more than $3,000, the amount of such adjustments shall, except as provided in paragraphs (c), (d), (f), and (g) of this section, be taken into account—

(i) One-tenth in each of the 10 taxable years beginning with the taxable year of the change, or

(ii) If the taxable year of the change was a taxable year beginning after December 31, 1953, and ending after August 16, 1954, but before January 1, 1958, and if the taxpayer makes the election under section 481(b)(4)(B) in the manner provided in subparagraph (4) of this paragraph, one-tenth in each of the 10 taxable years beginning with the first taxable year which begins after December 31, 1957.

(2) (i) The 10-year period which begins with the taxable year of the change shall be reduced by the number of years in respect of which assessment of the tax is prevented by operation of any law or rule of law. In the case of a taxpayer whose taxable year of the change ended before January 1, 1958, and who elects to use the period provided for in subparagraph (1)(ii) of this paragraph, the 10-year period which begins with the first taxable year beginning after December 31, 1957, shall be reduced by the number of years which corresponds to the number of taxable years, beginning with the taxable year of the change in

respect of which assessment of the tax was prevented by the operation of any law or rule of law on September 2, 1958.

(ii) In the case of such a shortened period, the portion of the adjustments to be taken into account in any one taxable year within such shortened period shall be one-tenth of such adjustments, that is, the same pro rata portion which would have been taken into account in such taxable year if the 10-year period beginning with such first taxable year had not been shortened. If, for example, in a case where the 10-year period is properly used, assessment of a deficiency is prevented with respect to 1 of the 10 taxable years in which one-tenth of the adjustments would otherwise be required to be taken into account, then only nine-tenths of such adjustments is to be taken into account ratably in the other 9 taxable years. Thus, if the adjustments required under section 481(a) amount to $10,000 and assessment of a deficiency for the calendar year 1954 (the taxable year of the change) is prevented, only nine-tenths of the adjustments, or $9,000, is to be taken into account in 1955 and the eight following taxable years at the rate of $1,000 a year. Similarly, if the taxpayer elects to begin the 10-year period with the taxable year 1958, only nine-tenths, or $9,000, is to be taken into account in 1958 and the eight following taxable years at the rate of $1,000 a year.

(3) If assessment of a deficiency is prevented with respect to a taxable year for which a prorated part would otherwise be required to be taken into account under subparagraphs (1) and (2) of this paragraph, section 481(b)(4)(B) does not reopen that year for assessment purposes.

(4) The election provided in section 481(b)(4)(B) and subparagraph (1) of this paragraph shall be made—

(i) In cases where the taxpayer requests the Commissioner's permission to change his method of accounting, at the time such request is made or at such other time as the Commissioner, prior to granting the taxpayer permission to make the change, may afford the taxpayer an opportunity to make such election; or

(ii) In cases where the taxpayer changed his method of accounting without the advance approval of the Commissioner and has not made an election to return to his former method of accounting in accordance with § 1.481–6, at any time before the ninetieth day after publication in the FEDERAL REGISTER of the regulations under section 481.

The election shall be in the form of a written statement to the effect that the taxpayer elects under section 481(b)(4)(B) to take the adjustments determined in accordance with section 481(b)(4)(A) into account in the 10-year period beginning with the first taxable year beginning after December 31, 1957, and that the taxpayer agrees to include one-tenth of such adjustments in taxable income for such years in the manner provided in subparagraph (2) of this paragraph. In the case of a partnership, the election shall be made by the individual partners. In the case of a taxpayer referred to in subdivision (i) of this subparagraph, the statement of election shall be filed with the Commissioner of Internal Revenue, Attention: T:R, Washington 25, D.C. In the case of a taxpayer referred to in subdivision (ii) of this subparagraph, the statement of election shall be filed with the district director with whom he filed his income tax return for the taxable year of the change.

(c) *Limitation on years in which adjustments can be taken into account.* The amount of any adjustments determined in accordance with section 481(b)(4)(A) and paragraph (a) of this section, to the extent not taken into account in prior taxable years under section 481(b)(4)(B) and paragraph (b) of this section, shall be taken into account as follows:

(1) In the case of an individual taxpayer, such amount shall be taken into account in the taxable year in which he dies or ceases to engage in a trade or business;

(2) In the case of a partner, his distributive share of such amount shall be taken into account in his taxable year in which the partnership terminates or in which his entire interest in such partnership is transferred or liquidated; or

(3) In the case of a corporation, such amount shall be taken into account in the taxable year in which the corporation ceases to engage in a trade or business, unless the amount is required to be taken into account by the acquiring corporation under section 381(c)(21) and the regulations thereunder.

(d) *Election under section 481(b)(6).* (1) Under section 481(b)(6) a taxpayer may elect to take the adjustments determined in accordance with section 481(b)(4)(A) and paragraph (a) of this section into account in the manner provided in section 481(b)(1) or (2) and paragraphs (a) or (b) of § 1.481–2 in lieu of taking such adjustments into account under the 10-year allocation rule provided in section 481(b)(4)(B) and paragraph (b) of this section. If a taxpayer makes the election under section 481(b)(6), such taxpayer may not take any portion of the adjustments into account under the 10-year allocation rule provided in section 481(b)(4)(B). In such cases, the entire amount of the adjustments required by section 481(a) is to be taken into account in computing taxable income for the taxable year of the change, subject to the limitations on tax provided in section 481(b)(1) or (2). For example, if the adjustments resulting from a change in method of accounting which occurred in 1956 amount to $25,000, of which $10,000 is attributable to pre-1954 Code years, and the taxpayer elects under section 481(b)(6) to take such adjustments into account in the manner provided by section 481(b)(1) or (2), the limitations on tax provided in section 481(b)(1) or (2) shall apply to the entire $25,000 adjustments.

(2) The election under section 481(b)(6) may be made only if the taxpayer consents in writing to the assessment, within such period as may be agreed upon with the Commissioner or district director, of any deficiency for the taxable year of the change in the method of accounting which results from taking such adjustments into account in the manner so elected, even though at the time of filing such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

(3) The election provided in section 481(b)(6) shall be made within the time prescribed by law for filing the return (including extensions of time therefor) for the taxable year of the change, or within 90 days after the date on which the Commissioner grants permission to the taxpayer to change his method of accounting, or at any time before the ninetieth day after publication in the FEDERAL REGISTER of the regulations under section 481, whichever is later. The statement shall be filed with the district director with whom the taxpayer files his income tax return for the taxable year of the change and shall be attached to the return for such year or, in the case of returns previously filed, the statement shall be attached to the necessary amended return or returns.

(e) *Example.* The application of the provisions of this section may be illustrated by the following examples:

Example (1). X Corporation has been filing its income tax returns and keeping its books on the cash receipts and disbursements method of accounting for the calendar year. It requests, and is granted, the permission of the Commissioner, effective with the calendar year 1960, to change to an accrual method of accounting. As of January 1, 1954, the taxpayer had an opening inventory of $20,000, accounts receivable of $22,000, and accounts payable of $14,000. As of January 1, 1960, its records reflect an opening inventory of $34,000, accounts receivable of $32,000, and accounts payable of $19,000. The corporation has no other items which require adjustment under section 481(a). The adjustments required to be made by X Corporation in 1960 under section 481(a) amount to $47,000 ($34,000 plus $32,000 less $19,000). The amount of the adjustments which X Corporation would have been required to make if it had changed its method of accounting for the calendar year 1954 is $28,000 ($20,000 plus $22,000 less $14,000). Since such $28,000 of adjustments in respect of pre-1954 Code years would increase the taxable income for 1954 by more than $3,000, and since the adjustments are attributable to a change in method of accounting initiated by the taxpayer, such $28,000 of adjustments shall be taken into account under section 481(b)(4)(B) and paragraph (b) of § 1.481–4, unless X Corporation elects under section 481(b)(6) to have the limitations on tax provided by section 481(b)(1) or (2) apply to such adjustments. The remaining portion ($19,000) of the adjustments required by section 481(a) is to be taken into account in 1960, subject, however, to the tax limitation applicable under the 3-year allocation method of section 481(b)(1) or the new-accounting-method allocation under section 481(b)(2).

Example (2). If the facts in example (1) were the same except that as of January 1, 1960, the three adjustments are such that only $20,000 of adjustments is required to be taken into account under section 481(a) for 1960, then the entire amount of adjustments ($20,000) is to be taken into account in the manner provided by section 481(b)(4) or section 481(b)(6) since such amount does not exceed the $28,000 of adjustments that would have been required if the taxpayer had

changed its method of accounting for the calendar year 1954.

(f) *Special rule for pre-1954 adjustments in case of certain decedents.* Section 481(b)(5) provides a special rule in respect of the tax attributable to pre-1954 adjustments in the case of a change from the cash receipts and disbursements method to an accrual method involving the use of inventories made on or after August 16, 1954, and before January 1, 1958, for a taxable year to which section 481 applies, by the executor or administrator of a decedent's estate in the first income tax return filed by such executor or administrator on behalf of the decedent. Such rule provides that—

(1) Such a change shall be given effect in determining taxable income (other than for the purpose of computing a net operating loss carryback to any prior taxable year of the decedent); and

(2) If the adjustments required by section 481(a) in respect of taxable years to which section 481 does not apply would increase taxable income of the decedent by more than $3,000, then the tax attributable to such adjustments shall not exceed an amount equal to the tax that would have been payable on the cash receipts and disbursements method for the years for which the executor or administrator filed income tax returns on behalf of the decedent, computed for each such year as though a ratable portion of the taxable income for such year had been received in each of 10 taxable years beginning and ending on the same dates as the taxable year for which the tax is being computed.

(g) *Exception for certain agreements.* (1) Section 29(d)(2) of the Technical Amendments Act of 1958 provides as follows:

(d) *Effective date.*

* * * * *

(2) *Exception for certain agreements.* The amendments made by subsections (a), (b)(1), and (c) shall not apply if before the date of the enactment of this Act—

(A) The taxpayer applied for a change in the method of accounting in the manner provided by regulations prescribed by the Secretary of the Treasury or his delegate, and

(B) The taxpayer and the Secretary of the Treasury or his delegate agreed to the terms and conditions for making the change.

[Sec. 29(d)(2), Technical Amendments Act of 1958 (72 Stat. 1629)]

(2) The amendments made to section 481 by section 29 (other than paragraphs 2 through 5 of subsection (b)) of the Technical Amendments Act of 1958 shall not apply if, before September 2, 1958, the taxpayer applied for a change in method of accounting in the manner provided by any Federal income tax regulation and the taxpayer and the Commissioner agreed to the terms and conditions for making the change.

(3) A taxpayer who, in accordance with any provision of the Internal Revenue Code or of any Federal income tax regulation permitting such action, elected to change his method of accounting with regard to one or more material items, such as research and experimental expenditures (section 174), soil and water conservation expenditures (section 175), last-in, first-out inventories (section 472), and exploration expenditures (section 615), and who satisfied the requirements of the regulations dealing with such elections, shall be treated for purposes of section 29(d)(2) of the Technical Amendments Act of 1958 as a taxpayer who applied for and changed his method of accounting in the manner provided by regulations and who agreed to the terms and conditions for making the change.

§ 1.481–5 Adjustments taken into account with consent.

(a) In addition to the methods of allocation described in section 481(b), the adjustments required by section 481(a) may be taken into account in computing the tax under chapter 1 for such taxable years, in such manner and subject to such conditions as may be agreed upon between the Commissioner and the taxpayer. See section 481(c). Requests for approval of a method of allocation differing from those described in section 481(b) shall be addressed to the Commissioner of Internal Revenue, Attention: T:R, Washington 25, D.C., and shall set forth in detail the facts and circumstances upon which the taxpayer bases his request. Permission will be granted only if the taxpayer and the Commissioner agree to the terms and conditions under which the allocation is to be effected.

(b) The agreement shall be in writing and shall be signed by the Commissioner and the taxpayer. It shall set forth the items to be adjusted, the amount of the adjustments, the taxable year or years for which the adjustments are to be taken into account, and the amount of the adjustments allocable to each such year. The agreement shall be binding on the parties except upon a showing of fraud, malfeasance, or misrepresentation of a material fact.

§ 1.481–6 Election to return to former method of accounting.

(a) Section 29(e) of the Technical Amendments Act of 1958 provides as follows:

(e) *Election to return to former method of accounting.*

(1) *Election.* Any taxpayer who for any taxable year beginning after December 31, 1953, and ending after August 16, 1954, and before the date of enactment of this Act, computed his taxable income under a method of accounting different from the method under which his taxable income for the preceding taxable year was computed, may elect to recompute his taxable income, beginning with the taxable year for which taxable income was computed under such different method of accounting, under the method of accounting under which taxable income was computed for such preceding taxable year. An election under this paragraph shall be made within 6 months after the date of the enactment of this Act, and shall be made in such manner as the Secretary of the Treasury or his delegate may provide. This paragraph shall not apply to any taxpayer—

(A) To whom subsection (d)(2) applies, or

(B) Who was required, before the date of the enactment of this Act, by the Secretary of the Treasury or his delegate to change his method of accounting.

(2) *Statute of limitations.* If assessment of any deficiency for any taxable year resulting from an election under paragraph (1) is prevented on the date on which such election is made, or at any time within one year after such date, by the operation of any law or rule of law, such assessment may, nevertheless, be made if made within one year after such date. An election by a taxpayer under paragraph (1) shall be considered as a consent to the assessment pursuant to this paragraph of any such deficiency. If refund or credit of any overpayment of income tax resulting from an election under paragraph (1) is prevented on the date on which such election is made, or at any time within one year after such date, by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year after such date.

[Sec. 29(e), Technical Amendments Act of 1958 (72 Stat. 1629)]

(b) Except as provided in paragraph (e) of this section, a taxpayer who for any taxable year beginning after December 31, 1953, and ending after August 16, 1954, but before September 2, 1958, computed his taxable income under a method of accounting different from the method used for the immediately preceding taxable year may elect to recompute his taxable income, beginning with the taxable year for which such method was first used, under the method used for such preceding taxable year.

(c) The election referred to in paragraph (b) of this section shall be made in the following manner:

(1) On or before March 2, 1959, the taxpayer shall file with the district director with whom he filed his income tax return for the taxable year of the change a statement to the effect that he elects to recompute his taxable income, beginning with the first taxable year for which he computed his taxable income under a method of accounting different from the preceding taxable year, under the method used for such preceding taxable year. The statement shall indicate the first taxable year for which taxable income was computed under a different method of accounting; and

(2) On or before June 1, 1959, the taxpayer shall file amended income tax returns for all taxable years affected by the election with a statement attached thereto showing the recomputation of taxable income for such taxable years under the method of accounting which he used in computing taxable income for the taxable year immediately preceding the taxable year of the change. The taxpayer shall also compute the amount of deficiency or overassessment in tax resulting from such recomputation of taxable income.

(d) (1) If assessment of a deficiency for any taxable year resulting from an election under this section is prevented on the date on which the election is made, or at any time within one year after such date, by the operation of any law or rule of law, such assessment may, nevertheless, be made within one year after such date. An election under this section shall be considered as a consent to the assessment of any such deficiency.

(2) If refund or credit of any overpayment of income tax resulting from an election under this section is prevented on the date on which such election is

made, or at any time within one year after such date, by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if a claim for such refund or credit is filed within one year after such date.

(e) An election under this section may not be made by a taxpayer—

(1) To whom paragraph (g) of § 1.481–4, relating to exception for certain agreements, applies, or

(2) Who was required, before September 2, 1958, by the Commissioner or district director to change his method of accounting.

For purposes of subparagraph (2) of this paragraph, a taxpayer, who on his own initiative, changed his method of accounting in order to conform to the requirements of any Federal income tax regulation or ruling shall not, merely because of such fact, be considered to be a taxpayer who was required, for purposes of section 481, to change his method of accounting.

[F.R. Doc. 59–1529; Filed, Feb. 19, 1959; 8:49 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 27]

CANNED FRUITS AND CANNED FRUIT JUICES; DEFINITIONS AND STANDARDS OF IDENTITY, QUALITY, AND FILL OF CONTAINER

Further Extension of Time for Filing Comments Regarding Proposal To Establish Identity Standards for Certain Orange Juice Products

By an order published in the FEDERAL REGISTER of January 30, 1959 (24 F.R. 683), the Commissioner of Food and Drugs extended the time for filing written comments in the above-entitled matter to February 18, 1959.

Interested persons have requested additional time in which to file comments in this matter, and good reason therefor appearing: *It is ordered,* That the time for filing be extended through April 17, 1959.

This action is taken pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 371), and authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (23 F.R. 9500).

Dated: February 16, 1959.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 59–1518; Filed, Feb. 19, 1959; 8:47 a.m.]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

[33 CFR Ch. IV]

OPERATING RULES AND REGULATIONS

Notice of Proposed Rule Making

Notice is hereby given pursuant to section 4(a) of the Administrative Procedure Act that the Saint Lawrence Seaway Development Corporation has under consideration the matter of adopting rules and regulations for the use and operation of the Saint Lawrence Seaway. Similar regulations are under consideration by the St. Lawrence Seaway Authority of Canada. It is planned that the regulations of each agency as finally adopted can insofar as possible be brought into conformity one with the other.

The proposed regulations will become effective on or before the opening of the Seaway to navigation of "deep draft" vessels in the spring of 1959 and its joint operation by the Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada. These regulations will supplant the operating regulations published July 1, 1958 (23 F.R. 5011–5013). They are designed to give effect to and to carry out the purposes of the act of May 13, 1954, 68 Stat. 92–93, 33 U.S.C. 987.

All persons having an interest and who desire to submit written comments, suggested changes, and arguments for consideration in connection with the proposed rules and regulations should file the same with the General Counsel of the Saint Lawrence Seaway Development Corporation, Seaway Circle, Massena, New York, not later than twenty (20) days after publication hereof in the FEDERAL REGISTER.

NOTE: Any references contained in these rules and regulations to the St. Lawrence Seaway Authority of Canada and to the Canadian portion of the Seaway are for information purposes only and shall have no binding effect.

The proposed regulations are as follows:

PART I—SEAWAY REGULATIONS

Section 1. Short title.

These regulations may be cited as the "Seaway Regulations."

Sec. 2. Interpretation.

In these regulations:

(a) "Act" means the Act establishing the Saint Lawrence Seaway Development Corporation, as amended. (68 Stat. 92; 33 U.S.C. 981);

(b) "Master" means the person in charge of a vessel;

(c) "Navigation season" means the prescribed period of navigation on the Seaway or any portion thereof;

(d) "Passing through" means going through or using a lock;

(e) "Pleasure craft" means a vessel however propelled, the overall length of which does not exceed sixty-five feet, that is used exclusively for pleasure and does not carry persons who have paid a fare for passage;

(f) "Prescribed" means prescribed by the Corporation and published in the FEDERAL REGISTER;

(g) "Representative" means the person representing a vessel in using the Seaway and responsible for the vessel and the payment of tolls such as the owner, charterer, agent, or person responsible for the vessel in fact;

(h) "Seaway" means every portion of the deep water navigation works that is under the jurisdiction of the Corporation, between the Port of Montreal and Lake Erie, and includes also, works, the management and administration of which have been entrusted to the Corporation pursuant to the Act;

(i) "Station" means a radio station installed at a prescribed point;

(j) "Transit" means to use the Seaway in whole or in part, whether upbound or downbound;

(k) "Vessel" means every type of craft used as a means of transportation on water; and

other terms and expressions in these regulations have the meaning ascribed to them in the Act or by the context.

Sec. 3. General conditions.

(a) Subject to other conditions that may be prescribed, vessels not exceeding 715 feet in overall length and 72 feet in beam, may transit during the navigation season.

(b) Vessels that exceed 715 feet in overall length or 72 feet in beam but do not exceed 730 feet in overall length and 75 feet in beam may transit during the navigation season, under special instructions from the Corporation.

(c) By the sole fact of using the Seaway, masters and owners of vessels acknowledge that they are well acquainted with these rules and regulations and bind themselves and undertake to comply with them and with any instructions that may be given pursuant to them.

Sec. 4. Pre-clearance of vessels.

(a) Before a vessel may transit, it shall be pre-cleared by the representative with the Corporation (or the St. Lawrence Seaway Authority) in the manner prescribed.

(b) A pre-clearance shall remain in effect until the representative is changed or there is a change with respect to the vessel that would modify one or more of the particulars given at the time of the pre-clearance; in either event, the vessel shall be pre-cleared again before its next transit.

(c) The representative shall, when he applies for pre-clearance guarantee in such manner as may be required by the Corporation (or Authority), payment of all monies that may become due by the vessel, in accordance with law.

(d) In the case of any vessel except a pleasure craft, the representative shall, when he applies for pre-clearance, warrant that the vessel is insured to cover damages that may be caused by the vessel to installations over or upon the Seaway from an accident in which the vessel is involved.

(e) The Corporation assumes no special liability or responsibility when allowing transit or making charges for a transit.

(f) Under all circumstances, the master remains responsible for the safe control of his vessel and has the burden of proving compliance with these regulations or with instructions given in accordance with the regulations.

(g) A copy of these rules and regulations shall be kept on board every transiting vessel.

Sec. 5. Condition of vessels for transit.

(a) All transiting vessels shall be properly trimmed and in a safe and satisfactory condition.

(b) Every transiting vessel shall be provided with all requisite apparatus, equipment or machinery, and the same shall be installed or used, as may be prescribed.

(c) The Corporation may deny a vessel transit, when, in its opinion, the vessel, its cargo, equipment or machinery is in any respect in such a condition as to prevent safe or expeditious transiting or when the vessel is manned with a crew that it deems to be insufficient or incompetent.

(d) For the purpose of enforcing these regulations, the Corporation may, by any means deemed convenient including going on board, examine any vessel or its cargo or inspect the crew.

Sec. 6. Navigation on the Seaway.

(a) Subject to these regulations, the Rules of the Road for the Great Lakes and the Collision Regulations or other similar regulations issued pursuant to such rules shall apply to any vessel transiting the Seaway.

(b) No vessel shall exceed the prescribed speeds.

(c) The Corporation assumes no liability in providing aids to or objects to assist navigation.

Sec. 7. Notice of arrival.

(a) All vessels shall, upon reaching a prescribed calling-in point, give notice of arrival in the manner prescribed.

(b) Notice of arrival shall have been given when it has been acknowledged by the station.

(c) Every vessel shall be on listening-in watch as prescribed.

(d) The master shall comply with all instructions given from a station in connection with transit.

(e) The relative order of passing through shall be determined by the Corporation.

Sec. 8. Passing through.

(a) Passing through and the procedure for locking shall be conducted in the manner prescribed.

(b) The crew of a vessel shall assist in the passing through in such numbers and in such manner as may be prescribed.

(c) Loading and unloading of goods and going on board or ashore of any person, including a crew member, are prohibited within the Seaway unless such loading, unloading, going on board or going ashore takes place as prescribed.

Sec. 9. Dangerous cargo.

(a) The representative shall warrant in the manner prescribed that dangerous cargo, that is, all cargo so prescribed or deemed to be dangerous in the relevant regulations issued under the Dangerous Cargo Act, is properly loaded, stowed, handled and disclosed, as the case may be, in accordance with the said regulations established under such acts, and as prescribed.

(b) A vessel carrying such dangerous cargo shall transit only in the manner prescribed.

(c) The master of a vessel carrying dangerous cargo shall disclose this fact to the station when giving notice of arrival.

Sec. 10. Documentary evidence.

All documentary evidence including inspection certificates, vessels' manifests, cargo manifests, crew lists and bills of lading shall be made available to the Corporation (or Authority) by the master, the representative or the owner as may be prescribed.

Sec. 11. Accidents.

(a) Where an accident occurs during the prescribed listening-in watch, involving damages to a vessel or cargo, or involving injuries to crew members or passengers, the master shall report immediately to the nearest station and shall file a written report if required by the Corporation.

(b) The representative shall, when called upon to do so, submit all such written reports or give assistance for the purpose of an investigation as may be required by the Corporation.

(c) Where an accident occurs resulting in damage to any property of the Corporation, or goods or cargo on such property, or in injuries to Seaway personnel, the vessel shall be held in accordance with orders of the Corporation and shall not be released until security satisfactory to the Corporation has been provided.

(d) The Corporation may take all means deemed expedient to remove any vessel, cargo or object that obstructs any part of the Seaway and shall charge the costs of removal to the owner or sell any of them to recover these costs, and should the amount realized by the sale not be sufficient, the owner shall pay the difference.

Sec. 12. Wintering and laying-up.

Wintering or laying-up of a vessel within the Seaway shall take place only when the written permission of the Corporation has been obtained and subject to the conditions and charges that may be imposed.

Sec. 13. Access to Seaway.

Subject to these regulations and unless prescribed, access by anyone to any part of the Seaway is prohibited.

Sec. 14. Rules.

The Corporation shall issue rules for the purpose of prescribing all matters that will assure proper administration and management of its works and property including the regulation and control of vessels and the matters so prescribed and published shall be deemed to form a part of these regulations.

Sec. 15. Offenses and penalties.

Any master or person having immediate control of a vessel who violates these regulations may be required temporarily to tie up such vessel, or be denied the use of the locks, and any person, owner, or representative who violates these regulations shall be subject to such fines and sanctions as are provided by law.

Sec. 16. General provision.

These regulations shall not be construed as affecting by implication the application of regulations or rules made under any other Acts and, except where such rules and regulations would nullify these regulations, they shall remain in full force and effect.

PART II—RULES

General conditions. These rules, as provided in Part I, section 14, supplement the regulations and contain matters which are required to assure the proper administration, management and use of the Seaway, including the control of vessels.

Each rule is intended to deal with a particular subject and in sequence according to the regulations. Changes will be made in the rules as necessity may dictate.

Rule 1. Pre-clearance of vessels.

In order to avoid stopping or delaying vessels at the various locks for documentation and toll collection, certain formalities must be performed before a vessel may use the Seaway.

(a) *Formalities before using the Seaway.* (1) A vessel is pre-cleared with the Corporation (or Authority) by the representative. The representative shall complete Form SLS [1] which may be obtained at the Saint Lawrence Seaway Development Corporation offices in Massena, New York (or at the St. Lawrence Seaway Authority Headquarters in Cornwall, Ontario, Canada). The representative shall submit the completed form to either office depending upon the location of the locks which the representative's vessel will first transit.

(2) Pre-clearance provides the Corporation (or Authority) with a description of the vessel, including details of equipment. The first step in pre-clearance includes registration of the vessel and the giving of the required security undertaking by the representative. Any change in the information or details provided in the pre-clearance form re-

[1] Filed as part of the original document.

quires that a new form be completed and submitted to the Corporation (or Authority).

(b) *Representatives.* (1) Every transiting vessel must have a representative who assumes responsibility for the vessel, to the Corporation (or Authority); the actual navigation and the control of the vessel remains the responsibility of the master.

(2) The representative must declare on the Pre-Clearance Form that the vessel carries protection and indemnity insurance. The representative must also provide evidence on the Pre-Clearance Form to show that the payment of tolls and other monies for the vessel or vessels is guaranteed. Such evidence may include a bond or money deposit.

(3) Whenever there is a change of representative, a new vessel pre-clearance form must be filed with the Corporation (or Authority), otherwise the vessel will transit under the former representative's undertakings.

(c) *Acknowledgment of pre-clearance.* The Pre-Clearance Form SLS shall be completed in duplicate, neither of which shall be returnable. A representative who wishes to have his own record of pre-clearance, may make a copy for his own use. The Pre-Clearance Form will be appropriately acknowledged.

(d) *Special conditions for pleasure craft.* When a pleasure craft seeks pre-clearance and is registered, arrangements may be made for the payment of tolls. When no arrangements have been made for the payment of tolls, notice must be given with the payment of tolls. Where a pleasure craft is not equipped with radio telephone, at least six hours notice must be given to the Corporation for transiting the American locks.

Rule 2. Condition of vessels for transit.

(a) *Radio telephone equipment.* (1) Vessels which normally carry passengers or cargo shall be equipped with either M.F. (medium frequency) or V.H.F. (very high frequency) radio telephone equipment. The radio transmitter should have sufficient power output to enable the vessel to contact the Corporation's (or Authority's) radio stations from a distance of 25 miles. The M.F. radio telephone should be fitted to communicate on 2182 Kcs and 2003 Kcs. The V.H.F. should be fitted to communicate on 156.6, 156.7 and 156.8 Mcs.

(2) It is important for safety purposes that the transit of pleasure craft without radio be accomplished so as to avoid interference with other shipping, therefore an accurate E.T.A. (estimated time of arrival) for the first lock of transit is essential. A variation in the E.T.A. may occasion a delay in passing through.

(b) *Mooring lines and winches.* (1) Vessels of two hundred registered gross tons or less shall have two good and sufficient lines or hawsers, one at the bow and one at the stern.

(2) Vessels of more than two hundred registered gross tons shall be provided with at least four good and sufficient lines or hawsers. These lines shall be positioned with two leading astern and two leading ahead. All the lines should be so arranged that they may be used on either side of the vessel. On self-propelled vessels, the lines shall run from power driven winches and not manually handled from capstans or similar devices. Each line shall be provided with a hand-hold loop spliced thereto at or near the end of the eye that is thrown over the bollard or snubbing post. Each line must be attended by one of the vessel's crew during the entire period that the vessel is in a lock. All lines shall be kept free of burrs and broken wires.

(3) Cargo winches may be used for the handling of mooring lines if:

(i) Each of the three mooring lines is wound on the main drum of a separate winch;

(ii) Each mooring line passes through no more than one lead between the winch and the fair-lead in the vessel's side, and,

(iii) Such leads are fixed in place and provided with free sheaves so that the mooring line may be led to either side of the vessel as required.

(4) Vessels should have closed chocks on both sides for the satisfactory handling of mooring lines.

(c) *Fenders.* (1) Vessels carrying dangerous cargo must be equipped with an adequate number of fenders to prevent any metallic portion of the vessel from touching the side of the dock or lock wall. Fenders will also be required where any structural part of a vessel protrudes to such extent that it may damage Seaway property.

(2) All fenders on vessels shall either be made of such materials as will float or shall be securely fastened to the vessel by means of a steel cable or by two manila ropes. Automobile or truck tires are not to be used as fenders.

(d) *Discharge pipes.* All discharge pipes shall be covered with hoods so as to discharge below the lock coping.

(e) *Trim and deck loads.* Vessels having a list or are so trimmed as to dangerously affect their maneuverability or endanger Seaway property may be delayed at the locks until such time as the condition is corrected. Nothing should be done by the master or any member of the crew which would materially alter the list or trim of a vessel while it is passing through a lock unless the master is directed to do so by the Lockmaster.

(f) *Draft markings.* Vessels having a mean draft of five feet or over should be correctly and distinctly marked on each side at the bow and stern to show the draft fore and aft.

(g) *Masts.* Vessels whose masts extend more than one hundred and seventeen feet above water surface will not be permitted to transit the Seaway.

(h) *Recommended equipment.* While vessels are not required to carry stern anchors and "visible and audible wrongway alarm systems" such equipment is recommended for vessels transiting the Seaway. Septic tanks are also recommended where vessels are not already equipped with containers for their ordures.

Rule 3. Seaway navigation instructions.

(a) *Speed.* (1) Every vessel transiting the Seaway should proceed at a reasonable speed, so as not to cause undue delay to vessels navigating in the same direction, yet avoid damage to canal banks and floating equipment in confined waters.

(2) The maximum speed for vessels, except pleasure craft, moving between the Snell Lock and Cat Island shall not exceed:

(i) Upbound vessels 8 miles per hour.

(ii) Downbound vessels 7 miles per hour.

(b) *Passing and meeting.* The passing of vessels meeting or overtaking one another in the Seaway shall be governed by the Great Lakes Rules of the Road, except as follows:

(1) No vessel shall overtake and attempt to pass another vessel proceeding in the same direction in the approaches to the tie-up walls and restricted lock areas or in the Wiley-Dondero Ship Channel unless specifically directed to do so by the traffic dispatcher.

(2) A vessel passing a moored vessel or equipment working in the Seaway shall proceed at dead slow speed but with due regard to safe navigation.

(c) *Vessel movement.* Vessels should not be turned about within the Seaway except when authorized to do so by the nearest Traffic Dispatcher.

(d) *Dropping anchor.* (1) Anchors should not be dropped within the Seaway, except in designated anchorage areas, unless an emergency exists.

(2) The action of dropping or weighing anchor should be reported immediately to the nearest Traffic Dispatcher.

(e) *Procedure at locks.* (1) When approaching a lock the stem of the vessel should not pass the signal marked "Limit of Approach" while the signal light shows red or when no light is shown. At a lock, a flashing red light indicates that the lock is being made ready to receive a vessel.

(2) A vessel should not proceed into a lock until a green light signal is shown.

(3) The master of any vessel while within a lock or approaching or leaving a lock shall ascertain for himself whether or not such lock is prepared to allow his vessel to enter or leave and he shall control his vessel so as to avoid collision with Seaway works or other vessels and no vessel should attempt to enter or leave a lock until the gates, and fender boom are fully opened.

(f) *Searchlights.* Vessels shall not use searchlights in such a manner that the rays of the searchlights will interfere with the navigation of a vessel or with the operation of Seaway facilities.

(g) *Smoke.* Vessels within locks and their immediate approaches shall not discharge sparks and excessive smoke. Vessels shall not blow boiler tubes in these areas.

(h) *Refuse.* No person shall deposit oil, oil sludge or other flammable or dangerous substance, or garbage, ashes, paper, ordure, litter or other materials in channel or lock waters or on channel or lock property, nor deposit any such

substance or material that would result in the pollution of channel waters.

Rule 4. Notice of arrival and radio communication.

The radio facilities provided by the Seaway have been established to assist navigators and to expedite the movement of vessels through the various locks. Masters of vessels will receive instructions from these stations.

(a) *Frequencies and call letters of stations.* (1) The Seaway radio stations are equipped to operate on the following frequencies:

Medium Frequencies (AM).	2182 Kcs, Safety and calling. 2003 Working.
Very High Frequencies (FM).	156.8, Safety and calling. 156.7, Primary Working. 156.6, Secondary Working.

(2) The call letters of the stations are as follows:

Station No. 1, Cote Ste Catherine	
Station No. 2, Beauharnois	
Station No. 3, Eisenhower	KEF
Station No. 4, Iroquois	(— CZ6K)
Station No. 5, Welland	(— VEX)

(b) *Calling in points.* (1) When a vessel reaches the following points upbound, Notice of Arrival shall be given by radio telephone to the radio stations indicated:

(Tetreauville	—call	—Cote Ste. Catherine
Windmill Point	—call	—Beauharnois)
Hamilton Island Light [1]	—call	—KEF—Eisenhower
(Morrisburg	—call	—CZ6K—Iroquois)

[1] Vessels shall also call KEF, Eisenhower and advise when coming in the Raquette River Range and under the Cornwall-Maseena International Bridge.

(2) When a vessel reaches the following points downbound Notice of Arrival must be given by radio telephone to the station indicated.

(Maitland	—call	—CZ6K—Iroquois)
Bradford Island Light [1]	—call	—KEF—Eisenhower
(McKies Point	—call	—Beauharnois
Point Claire	—call	—Cote Ste Catherine)

[1] Vessels shall also call KEF—Eisenhower, and advise when passing Richards Point Light #55.

(3) (When a vessel reaches a point upbound three miles from Port Weller and downbound three miles from Port Colborne, Notice of Arrival must be given by calling VBX at Welland.)

(4) (A vessel will not be cleared downbound from the St. Lambert Lock until the traffic dispatcher at Cote Ste. Catherine has checked the clearance with the Port of Montreal radio operator. A vessel proceeding upbound for passage through St. Lambert Lock must obtain clearance to enter the lock from the Cote Ste. Catherine traffic dispatcher prior to the vessel passing the anchorage area at Longue Pointe.)

(5) Radio communication within the Seaway shall be conducted in accordance with the United States-Canada Treaty, on Promotion of Safety on the Great Lakes by Means of Radio, which came into force on November 13, 1954. The Department of Transport, which administers all radio communication in Canada has issued a handbook which contains regulations and instructions pertaining to the use of radio telephone in the Marine Service. The procedures outlined in this handbook shall apply to radio telephone communications within the Seaway.

Rule 5. Passing through the docks.

(a) *Berthing at tie-up walls.* When the master of a vessel is advised to berth his vessel at a tie-up wall he will use members of his crew to handle the lines. When a traffic dispatcher advises the master whose vessel is at a tie-up wall to enter a lock, he should prepare his vessel for entry without delay.

(b) *Preparing mooring lines for locking.* (1) When preparing mooring lines for passing through a lock, the lines will be drawn off the winch drums outwards and through the fairleads and chocks. The lines should be placed on the deck in sufficient length to reach the lock mooring posts. The lines should not be placed over the side of a vessel until the signal is received from the lockmaster. Heaving lines should be secured to the mooring lines by a clove hitch which should be positioned approximately two feet back of the splice.

(2) The winches from which the mooring lines run should not be operated until a signal is received from the lockmaster or linemen that the line has been placed on the mooring post.

(c) *Mooring.* (1) Each vessel shall advance to the lock in the order in which it arrived, however:

(i) Certain vessels shall be called to follow such order as may be established by the Traffic Dispatcher,

(ii) If so instructed by the Traffic Dispatcher, a vessel small enough to lock with a preceding vessel shall advance ahead for that purpose.

(2) A vessel proceeding into a lock upbound shall normally receive her messenger lines after passing the open lock gates and shall proceed into the lock to a point at which her stem is 200 or more feet from the sign marked "Stop" on the lock wall ahead.

(3) A vessel proceeding into a lock downbound shall normally present her messenger lines after passing the open lock gates and shall proceed into the lock to a point at which her stem is 200 or more feet from the sign marked "Stop" on the lock wall ahead.

(4) Any vessel locked singly will normally position herself as soon as the stern passes the lock gate.

(5) The stem or bow of upbound vessels shall not pass the "Stop" sign near the upper gates, until the upper gates and fender booms are opened.

(6) While locking, the vessel's last two mooring lines should not be cast off until the gates and fenders of the lock are in a fully open position and a whistle signal (one short blast) is given to the master of the vessel to proceed.

(d) *Tandem lockages.* When two or more vessels are being locked together the vessel or vessels astern of the lead vessel should maneuver to mooring positions so as to come to a full stop a sufficient distance from each other to avoid collision.

(e) *Tows, barges and rafts.* (1) Normally a towing vessel will be permitted to tow another vessel through any part of the Seaway. In order that the towing vessel shall have full control, the vessel being towed must be tied securely alongside or astern of the towing vessel.

(2) The master of the towing vessel shall be responsible for the mooring of the vessels being towed. A deck officer should be on the deck of the vessel being towed at all times. When a vessel, whose overall length exceeds 260 feet, requires being towed through the Seaway, it will be necessary for such a vessel to be provided with two towing vessels, one towing vessel will be positioned forward and the other aft.

(3) Barges that are towed or propelled by an accompanying tug and are not equipped with deck winches shall detail one of the vessel's crew to attend to each of the lines at the vessel's cleats or mooring bitts while passing through. The crew members so assigned shall take up the slack as the vessel rises or pay out lines as the vessel lowers, to prevent the vessel from striking against the gate fenders, the lock gates or other vessels that may be in the lock, and to control the vessel while the lock is being filled or emptied.

Rule 6. Dangerous cargo.

(a) The representative must warrant, on the Cargo Declaration Form, that all dangerous cargo as defined in the regulations issued pursuant to the Dangerous Cargo Act, carried by the vessel, has been described, packed, marked and certified as complying with those regulations. No dangerous cargo may be carried on a transiting vessel or may be handled within the Seaway unless the master complies with the special instruction that may be given for transit.

(b) The master of a vessel carrying dangerous cargo must report this fact to the station when giving Notice of Arrival and the vessel shall proceed only in strict accordance with the instructions given to him by the dispatcher and lockmaster.

Rule 7. Toll assessment and collection.

(a) The representative of the vessel who has filed the Pre-Clearance Form must complete a Cargo Declaration Form and forward it to the Saint Lawrence Seaway Development Corporation at Massena, New York (or Seaway Headquarters, Cornwall, Ontario, Canada). The Cargo Declaration must be received three days prior to the date of the intended transit. This Declaration will be used for the purpose of assessing tolls and preparing accounts in accordance with the tariff of tolls.

(b) Upon receipt of the Cargo Declaration Form, tolls will be assessed in accordance with the Declaration and the destination of the vessel and cargo as disclosed. The account in duplicate will be forwarded to the representative. Where the representative has requested that accounts be made to a bank or financial institution, in the vessel's Pre-Clearance Form, one copy of the account will be sent to the bank or financial institution and the copy will be sent to the representative.

(c) The amount shown on an account is payable on receipt. Unless it is paid

within ten days from the time that the vessel enters the Seaway, a collection surcharge of 5 percent of the unpaid amount shall be added. The payments should be made as indicated on the account, that is, in American funds or Canadian funds as the case may be, and at par at New York, New York, or Cornwall, Ontario. All accounts will be adjusted periodically and the adjustment will be reflected in the subsequent account or in an adjustment account.

(d) A copy of the cargo manifests duly certified by the representative may be required to be filed in Massena, New York (or Cornwall, Ontario, Canada). In all cases where a Weigh-Scale certificate or similar documents take the place of the cargo manifest, it may be accepted in lieu of this manifest.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION,
[SEAL] LEWIS G. CASTLE,
Administrator.

[F.R. Doc. 59-1525; Filed, Feb. 19, 1959; 8:48 a.m.]

NOTICES

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 58-53]

APPROVAL AND TERMINATION OF APPROVAL OF EQUIPMENT, INSTALLATIONS, OR MATERIALS AND CHANGE IN NAME AND ADDRESS OF MANUFACTURERS

Correction

In F.R. Document 58-10743, appearing in the issue for Wednesday, December 31, 1958, make the following changes:

1. Page 10564, column 3, line 6 under heading "Signals, distress, hand-held * * *" the dwg. No. should read "No. B/M 173".

2. Page 10565, column 2, line 4, the Approval No. should read "Approval No. 160.048/131/0".

3. Page 10567, column 1, line 1 under the heading "Fire extinguishers, portable, hand-chemical type", the Approval No. should read "Approval No. 162.010/27/1".

4. Page 10567, column 2, line 5 under the heading "Deck coverings" the reference to "FP" should read "FR".

5. Page 10569, column 3, lines 2 and 12 under the heading "Gaging devices * * *", the reference to "Reg." should read "Reg. O".

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Gallup Area Redelegation Order 2, Amdt. 9]

ASSISTANT AREA DIRECTORS, GENERAL SUPERINTENDENTS, SUPERINTENDENTS, NAVAJO SUBAGENCY SUPERINTENDENTS AND PERSONS AUTHORIZED TO ACT IN THEIR STEAD

Redelegation of Authority

Order No. 2, as amended (19 F.R. 8675, 20 F.R. 2894, 3941, 8780, 21 F.R. 5848 and 6286, 22 F.R. 8829, 23 F.R. 6842, 24 F.R. 683) is further amended as hereinafter indicated. A new section under Part I, General is added to read as follows:

SEC. 1.3 *Authority of Assistant Area Directors.* The Assistant Area Directors and those persons authorized to act in their stead during their absence from the respective offices may severally exercise any and all authority conferred upon the Area Director by the Commissioner of Indian Affairs, except that only the Assistant Area Director, Administration, may enter into construction, supply and service contracts as set forth in Gallup Area Office Redelegation Order 3.

Part II, Authority of General Superintendents, Superintendents and School Superintendent is revised to read:

Subject to the provisions of Part I, General Superintendents, Superintendents and the School Superintendent and those persons acting in their stead may exercise the authority of the Area Director as indicated in this part.

Under Part III—Authority of General Superintendents, first paragraph is revised as follows:

In addition to authority delegated them under Part II of this order, General Superintendents, or persons acting in their stead, may also exercise the authority of the Area Director, subject to the provisions of Part I, as indicated in this part.

Under Part V—Authority of Subagency Superintendents, Navajo Agency is revised as follows:

Subject to the provisions of Part I, any Subagency Superintendent, Navajo Agency, or person acting in his stead is authorized to exercise the authority of his superior, the General Superintendent, Navajo Agency as indicated in this part.

CHARLES E. MORELOCK,
Acting Area Director.

Approved: February 16, 1959.

GLENN L. EMMONS,
Commissioner.

[F.R. Doc. 59-1519; Filed, Feb. 19, 1959; 8:47 a.m.]

Bureau of Land Management

[No. 59-7]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

FEBRUARY 12, 1958.

United States Bureau of Sport Fisheries and Wildlife has filed an application, Serial No. 06587, for the withdrawal of the lands described below, subject to valid existing rights, from all forms of appropriation under the public land laws, including locations under the general mining laws, but excepting leasing under the mineral leasing laws (oil and gas leasing on wildlife lands are subject to Standard Stipulation Form 4-1383), and lease or sale for public recreation purposes under the act of June 14, 1926 (44 Stat. 741), as amended. The administration of forestry and grazing resources will remain under the Bureau of Land Management.

The applicant desires the land for use by the Oregon State Game Commission for the purpose of developing and providing public access to the Wallowa River for fishing in connection with the Wallowa River Wildlife Management Area.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 809 N.E. Sixth Avenue, Portland 12, Oregon.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

WILLAMETTE MERIDIAN, OREGON

T. 2 N., R. 41 E.,
Sec. 19: NE¼SE¼, E½NW¼SE¼, NE¼SW¼SE¼, S½SW¼SE¼,
Sec. 20: W½NW¼SW¼,
Sec. 30: N½NW¼NE¼, SE¼NW¼NE¼.

Approximately 140 acres.

VIRGIL T. HEATH,
State Supervisor.

[F.R. Doc. 59-1520; Filed, Feb. 19, 1959; 8:47 a.m.]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

FEBRUARY 12, 1959.

The Civil Aeronautics Administration, United States Department of Commerce, has filed an application, Serial Number Sacramento 056152 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the general mining laws and the mineral leasing laws, sub-

ject to existing valid claims. The management, use and disposal of the forest and range resources will continue under the administration of the Bureau of Land Management in accordance with applicable laws and regulations.

The applicant desires the land for establishment of air navigational facilities.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, California Fruit Building, Room 1000, Fourth and J Streets, Sacramento 14, California.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 32 S., R. 20 E.,
Sec. 31: S½NE¼, N½SE¼.

Total acreage: 160 acres.

WALTER E. BECK,
Manager.

[F.R. Doc. 59-1521; Filed, Feb. 19, 1959; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

ROBERTSON COUNTY LIVESTOCK SALE AND GEORGETOWN COMMUNITY SALE

Proposed Posting of Stockyards

The Director of the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the act.

Robertson County Livestock Sale, Franklin, Texas.
Georgetown Community Sale, Georgetown, Texas.

Notice is hereby given, therefore, that the said Director, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the act, as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Director, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., within 15 days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of February 1959.

DAVID M. PETTUS,
Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 59-1546; Filed, Feb. 19, 1959; 8:51 a.m.]

Commodity Stabilization Service

MARKETING QUOTA REVIEW COMMITTEES

Establishment of Areas of Venue

Pursuant to section 3(a)(1) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1002) which requires that the field organization be published in the FEDERAL REGISTER and § 711.11 of the Marketing Quota Review Regulations (21 F.R. 9365, 9716), which provides for establishment of areas of venue for marketing quota review committees, notice is hereby given of areas of venue established by ASC State committees as listed herein. This notice supersedes previous notices respecting areas of venue (22 F.R. 123, 1042, 1937, 2717, 3765; 23 F.R. 515, 1973).

ALABAMA

Counties of:
Area I—Blount, Cherokee, DeKalb, Etowah, Marshall.
Area II—Jackson, Limestone, Madison, Morgan.
Area III—Colbert, Cullman, Franklin, Lauderdale, Lawrence.
Area IV—Fayette, Jefferson, Lamar, Marion, Walker, Winston.
Area V—Calhoun, Chambers, Clay, Cleburne, Randolph, St. Clair, Talladega.
Area VI—Autauga, Bibb, Chilton, Dallas, Shelby, Tuscaloosa.
Area VII—Greene, Hale, Marengo, Perry, Pickens, Sumter.
Area VIII—Coosa, Elmore, Lee, Lowndes, Macon, Montgomery, Russell, Tallapoosa.
Area IX—Bullock, Butler, Covington, Crenshaw, Pike.
Area X—Barbour, Coffee, Dale, Geneva, Henry, Houston.
Area XI—Baldwin, Choctaw, Mobile, Washington.
Area XII—Clarke, Conecuh, Escambia, Monroe, Wilcox.

ARIZONA

Area—Entire State.

ARKANSAS

Counties of:
Area I—Jackson, Lawrence, Poinsett, White.
Area II—Crittenden, Cross, Lee, Lonoke, Monroe, Phillips, Prairie, St. Francis, Woodruff.
Area III—Calhoun, Clark, Columbia, Dallas, Grant, Hempstead, Hot Spring, Lafayette, Miller, Nevada, Ouachita, Union.
Area IV—Benton, Boone, Carroll, Conway, Crawford, Franklin, Johnson, Madison, Newton, Pope, Sebastian, Washington.
Area V—Baxter, Cleburne, Faulkner, Fulton, Independence, Izard, Marion, Pulaski, Searcy, Sharp, Stone, Van Buren.
Area VI—Arkansas, Ashley, Bradley, Chicot, Cleveland, Desha, Drew, Jefferson, Lincoln.
Area VII—Garland, Howard, Little River, Logan, Montgomery, Perry, Pike, Polk, Saline, Scott, Sevier, Yell.
Area VIII—Clay, Craighead, Greene, Mississippi, Randolph.

CALIFORNIA

Counties of:
Area I—Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity.
Area II—Contra Costa, Lake, Marin, Mendocino, Napa, Solano, Sonoma.
Area III—Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Inyo, Mono, Nevada, Placer, Sacramento, Sutter, Yolo, Yuba.
Area IV—Madera, Mariposa, Merced, San Joaquin, Stanislaus, Tuolumne.
Area V—Alameda, Monterey, San Benito, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz.
Area VI—Fresno, Kern, Kings, Tulare.
Area VII—Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Ventura.

COLORADO

Counties of:
Area I—Cheyenne, Kit Carson, Lincoln, Logan, Phillips, Sedgwick, Washington, Yuma.
Area II—Adams, Arapahoe, Boulder, Douglas, Elbert, Jefferson, Larimer, Morgan, Park, Weld.
Area III—Baca, Bent, Chaffee, Crowley, Custer, El Paso, Fremont, Huerfano, Kiowa, Las Animas, Otero, Prowers, Pueblo, Teller.
Area IV—Alamosa, Archuleta, Conejos, Costilla Dolores, La Plata, Montezuma, Rio Grande, Saguache.
Area V—Delta, Eagle, Garfield, Grand, Gunnison, Jackson, Mesa, Moffat, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Miguel.

CONNECTICUT

Counties of:
Area I—Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, Windham.

DELAWARE

Counties of:
Area—Kent, New Castle, Sussex (entire State).

FLORIDA

Counties of:
Area I—Alachua, Baker, Clay, Columbia, Duval, Gilchrist, Hendry, Hillsborough, Lake, Levy, Marion, Nassau, Orange, Palm Beach, Polk, Putnam, Seminole, St. Johns, Sumter, Union, Volusia.
Area II—Bradford, Dixie, Hamilton, Lafayette, Madison, Suwannee, Taylor.
Area III—Calhoun, Gadsden, Gulf, Jackson, Jefferson, Leon, Liberty, Wakulla.
Area IV—Bay, Escambia, Holmes, Okaloosa, Santa Rosa, Walton, Washington.

GEORGIA

Counties of:
Area I—Banks, Bartow, Catoosa, Chattooga, Cherokee, Dade, Dawson, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Habersham, Hall, Lumpkin, Murray, Pickens, Rabun, Stephens, Towns, Union, Walker, White, Whitfield.
Area II—Carroll, Clayton, Cobb, Coweta, Crawford, De Kalb, Douglas, Fayette, Fulton, Haralson, Harris, Heard, Henry, Lamar, Meriwether, Muscogee, Paulding, Pike, Polk, Spalding, Talbot, Taylor, Troup, Upson.
Area III—Baker, Calhoun, Chattahoochee, Clay, Decatur, Dougherty, Early, Grady, Lee, Macon, Marion, Miller, Mitchell, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Terrell, Thomas, Webster.
Area IV—Atkinson, Bacon, Ben Hill, Berrien, Brantley, Brooks, Charlton, Clinch, Coffee, Colquitt, Cook, Crisp, Dooly, Echols, Irwin, Lanier, Lowndes, Pierce, Tift, Turner, Ware, Wilcox, Worth.
Area V—Appling, Bryan, Bulloch, Camden, Candler, Chatham, Effingham, Emanuel, Evans, Glynn, Jeff Davis, Jenkins, Liberty, Long, McIntosh, Montgomery, Screven, Tattnall, Telfair, Toombs, Treutlen, Wayne, Wheeler.
Area VI—Baldwin, Bibb, Bleckley, Butts, Dodge, Greene, Hancock, Houston, Jasper,

Johnson, Jones, Laurens, Monroe, Morgan, Peach, Pulaski, Putnam, Twiggs, Washington, Wilkinson.

Area VII—Barrow, Burke, Clarke, Columbia, Elbert, Glascock, Gwinnett, Hart, Jackson, Jefferson, Lincoln, Madison, McDuffie, Newton, Oconee, Oglethorpe, Richmond, Rockdale, Taliaferro, Walton, Warren, Wilkes.

IDAHO

Counties of:

Area I—Bonneville, Clark, Fremont, Jefferson, Lemhi, Madison, Teton.

Area II—Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, Power.

Area III—Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls.

Area IV—Blaine, Butte, Custer.

Area V—Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington.

Area VI—Clearwater, Idaho, Lewis, Nez Perce.

Area VII—Benewah, Bonner, Boundary, Kootenai, Latah.

ILLINOIS

Counties of:

Area I—Carroll, Jo Daviess, Stephenson.

Area II—De Kalb, Ogle, Winnebago.

Area III—Boone, Kane, Lake, McHenry.

Area IV—Henry, Mercer, Rock Island.

Area V—Bureau, Lee, Whiteside.

Area VI—Marshall, Peoria, Putnam, Stark.

Area VII—Grundy, Kendall, La Salle.

Area VIII—Livingston, McLean, Woodford.

Area IX—De Witt, Macon, Piatt.

Area X—Cook, Du Page, Will.

Area XI—Ford, Iroquois, Kankakee.

Area XII—Champaign, Edgar, Vermilion.

Area XIII—Henderson, Knox, Warren.

Area XIV—Adams, Brown, Schuyler.

Area XV—Fulton, Hancock, McDonough.

Area XVI—Logan, Mason, Tazewell.

Area XVII—Cass, Morgan, Pike, Scott.

Area XVIII—Christian, Menard, Sangamon.

Area XIX—Calhoun, Greene, Jersey.

Area XX—Bond, Macoupin, Madison, Montgomery.

Area XXI—Clifton, Monroe, St. Clair, Washington.

Area XXII—Effingham, Fayette, Shelby.

Area XXIII—Coles, Douglas, Moultrie.

Area XXIV—Clark, Crawford, Cumberland, Jasper.

Area XXV—Jackson, Perry, Randolph.

Area XXVI—Franklin, Johnson, Williamson.

Area XXVII—Alexander, Pulaski, Union.

Area XXVIII—Hardin, Massac, Pope, Saline.

Area XXIX—Clay, Jefferson, Marion, Wayne.

Area XXX—Edwards, Lawrence, Richland, Wabash.

Area XXXI—Gallatin, Hamilton, White.

INDIANA

Counties of:

Area I—Elkhart, Jasper, Kosciusko, Lake, LaPorte, Marshall, Newton, Porter, St. Joseph, Starke.

Area II—Adams, Allen Blackford, DeKalb, Huntington, Jay, LaGrange, Noble, Steuben, Wells, Whitley.

Area III—Benton, Carroll, Cass, Fulton, Grant, Howard, Miami, Pulaski, Wabash, White.

Area IV—Boone, Clinton, Fountain, Hamilton, Montgomery, Parke, Tippecanoe, Tipton, Vermillion, Warren.

Area V—Delaware, Hancock, Hendricks, Henry, Madison, Marion, Randolph, Rush, Shelby, Wayne.

Area VI—Clay, Daviess, Gibson, Greene, Knox, Martin, Owen, Putnam, Sullivan, Vigo.

Area VII—Bartholomew, Brown, Clark, Floyd, Jackson, Johnson, Lawrence, Monroe, Morgan, Washington.

Area VIII—Dearborn, Decatur, Fayette, Franklin, Jefferson, Jennings, Ohio, Ripley, Scott, Switzerland, Union.

Area IX—Crawford, Dubois, Harrison, Orange, Perry, Pike, Posey, Spencer, Vanderburgh, Warrick.

IOWA

Counties of:

Area I—Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Hancock, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Webster, Winnebago, Wright, Woodbury.

Area II—Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Delaware, Dubuque, Fayette, Floyd, Franklin, Howard, Jackson, Johnson, Jones, Linn, Louisa, Mitchell, Muscatine, Scott, Winneshiek, Worth.

Area III—Benton, Boone, Grundy, Hamilton, Hardin, Iowa, Jasper, Marshall, Polk, Poweshiek, Story, Tama.

Area IV—Appanoose, Davis, Des Moines, Henry, Jefferson, Keokuk, Lee, Mahaska, Marion, Monroe, Van Buren, Wapello, Washington.

Area V—Adair, Clarke, Dallas, Decatur, Greene, Guthrie, Lucas, Madison, Ringgold, Union, Wayne, Warren.

Area VI—Adams, Audubon, Cass, East Pottawattamie, Fremont, Harrison, Mills, Montgomery, Page, Shelby, Taylor, West Pottawattamie.

KANSAS

Counties of:

Area I—Clay, Riley, Washington.

Area II—Marshall, Nemaha, Pottawatomie.

Area III—Atchison, Brown, Doniphan.

Area IV—Douglas, Jackson, Jefferson.

Area V—Johnson, Leavenworth, Wyandotte.

Area VI—Franklin, Linn, Miami.

Area VII—Allen, Anderson, Bourbon.

Area VIII—Cherokee, Crawford, Neosho.

Area IX—Chautauqua, Labette, Montgomery.

Area X—Butler, Elk, Greenwood, Wilson, Woodson.

Area XI—Cowley, Harper, Kingman, Sedgwick, Sumner.

Area XII—Coffey, Lyon, Osage, Shawnee, Wabaunsee.

Area XIII—Chase, Dickinson, Geary, Marion, Morris.

Area XIV—Cloud, Jewell, Mitchell, Ottawa, Republic.

Area XV—Ellsworth, Lincoln, Russell, Saline.

Area XVI—Harvey, McPherson, Reno, Rice.

Area XVII—Barber, Clark, Comanche, Ford, Kiowa.

Area XVIII—Barton, Edwards, Pawnee, Pratt, Stafford.

Area XIX—Ellis, Hodgeman, Ness, Rush, Trego.

Area XX—Norton, Osborne, Phillips, Rooks, Smith.

Area XXI—Decatur, Gove, Graham, Logan, Sheridan.

Area XXII—Cheyenne, Rawlins, Sherman, Thomas, Wallace.

Area XXIII—Finney, Gray, Lane, Meade, Scott.

Area XXIV—Greeley, Hamilton, Kearny, Stanton, Wichita.

Area XXV—Grant, Haskell, Morton, Seward, Stevens.

KENTUCKY

Counties of:

Area I—Ballard, Calloway, Carlisle, Crittenden, Fulton, Graves, Hickman, Livingston, Lyon, McCracken, Marshall, Trigg.

Area II—Breckinridge, Caldwell, Christian, Daviess, Hancock, Henderson, Hopkins, McLean, Muhlenberg, Ohio, Union, Webster.

Area III—Allen, Barren, Butler, Clinton, Cumberland, Logan, Metcalfe, Monroe, Russell, Simpson, Todd, Warren.

Area IV—Anderson, Bullitt, Franklin, Gayson, Hardin, Henry, Jefferson, Meade, Nelson, Oldham, Shelby, Spencer.

Area V—Adair, Boyle, Casey, Edmonson, Green, Hart, Larue, Lincoln, Marion, Mercer, Taylor, Washington.

Area VI—Bell, Clay, Harlan, Jackson, Knox, Laurel, McCreary, Owsley, Pulaski, Rockcastle, Wayne, Whitley.

Area VII—Boyd, Breathitt, Floyd, Johnson, Knott, Lawrence, Leslie, Letcher, Magoffin, Martin, Perry, Pike.

Area VIII—Clark, Estill, Fayette, Garrard, Jessamine, Lee, Madison, Menifee, Montgomery, Morgan, Powell, Wolfe.

Area IX—Bath, Bourbon, Carter, Elliott, Fleming, Greenup, Lewis, Nicholas, Robertson, Rowan, Scott, Woodford.

Area X—Boone, Bracken, Campbell, Carroll, Gallatin, Grant, Harrison, Kenton, Mason, Owen, Pendleton, Trimble.

LOUISIANA

Parishes:

Area I—Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Red River, Union, Webster.

Area II—Caldwell, Concordia, East Carroll, Franklin, Madison, Morehouse, Ouachita, Richland, Tensas, West Carroll.

Area III—Avoyelles, Beauregard, Catahoula, Grant, LaSalle, Natchitoches, Rapides, Sabine, Vernon, Winn.

Area IV—Acadia, Allen, Calcasieu, Cameron, Evangeline, Jefferson Davis, Lafayette, St. Landry, St. Martin, Vermilion.

Area V—East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Tammany, Tangipahoa, Washington, West Baton Rouge, West Feliciana.

Area VI—Ascension, Assumption, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John, St. Mary, Terrebonne.

MAINE

None.

MARYLAND

Counties of:

Area I—Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, Washington.

Area II—Baltimore, Cecil, Harford, Kent, Queen Annes.

Area III—Caroline, Dorchester, Somerset, Talbot, Wicomico, Worcester.

Area IV—Calvert, Charles, St. Marys.

Area V—Anne Arundel, Prince Georges.

MASSACHUSETTS

Area—Entire State.

MICHIGAN

Counties of:

Area I—Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft.

Area II—Alcona, Alpena, Antrim, Arenac, Charlevoix, Cheboygan, Crawford, Emmet, Iosco, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle.

Area III—Benzie, Clare, Gladwin, Grand Traverse, Kalkaska, Lake, Leelanau, Manistee, Mason, Missaukee, Osceola, Roscommon, Wexford.

Area IV—Gratiot, Ionia, Isabella, Kent, Mecosta, Midland, Montcalm, Muskegon, Newago, Oceana, Ottawa.

Area V—Bay, Clinton, Genesee, Saginaw, Shiawassee.

Area VI—Huron, Lapeer, St. Clair, Sanilac, Tuscola.

Area VII—Livingston, Macomb, Monroe, Oakland, Wayne.

Area VIII—Hillsdale, Ingham, Jackson, Lenawee, Washtenaw.

Area IX—Barry, Branch, Calhoun, Eaton, St. Joseph.

Area X—Allegan, Berrien, Cass, Kalamazoo, Van Buren.

MINNESOTA

Counties of:

Area I—Anoka, Carver, Chisago, Dakota, Goodhue, Hennepin, McLeod, Ramsey, Rice, Scott, Sibley, Wabasha, Washington.

Area II—Beltrami, Clearwater, East Polk, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Red Lake, Roseau, West Polk.

Area III—Big Stone, Chippewa, Kandiyohi, Lac qui Parle, Meeker, Pope, Renville, Stearns, Stevens, Swift, Yellow Medicine.

Area IV—Becker, Cass, Clay, Douglas, East Otter Tail, Grant, Hubbard, Morrison, Todd, Traverse, Wadena, West Otter Tail, Wilkin.

Area V—Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock, Watonwan.

Area VI—Blue Earth, Dodge, Faribault, Fillmore, Freeborn, Houston, Le Sueur, Mower, Nicollet, Olmsted, Steele, Waseca, Winona.

Area VII—Aitkin, Benton, Carlton, Cook, Crow Wing, Isanti, Itasca, Kanabec, Lake, Mille Lacs, North St. Louis, Pine, Sherburne, South St. Louis, Wright.

MISSISSIPPI

Counties of:

Area I—Alcorn, Benton, Itawamba, Lafayette, Lee, Marshall, Pontotoc, Prentiss, Tippah, Tishomingo, Union.

Area II—Calhoun, Carroll, Chickasaw, Choctaw, Clay, Grenada, Lowndes, Monroe, Montgomery, Oktibbeha, Webster, Yalobusha.

Area III—Attala, Kemper, Leake, Neshoba, Noxubee, Winston.

Area IV—Clarke, Jasper, Lauderdale, Newton, Scott, Smith.

Area V—Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Perry, Stone, Wayne.

Area VI—Covington, Jefferson Davis, Lamar, Lawrence, Marion, Pearl River, Simpson, Walthall.

Area VII—Adams, Amite, Franklin, Lincoln, Pike, Wilkinson.

Area VIII—Claiborne, Copiah, Hinds, Jefferson, Madison, Rankin, Warren.

Area IX—Holmes, Humphreys, Issaquena, Leflore, Sharkey, Sunflower, Washington, Yazoo.

Area X—Bolivar, Coahoma, DeSoto, Panola, Quitman, Tallahatchie, Tate, Tunica.

MISSOURI

Counties of:

Area I—Caldwell, Carroll, Chariton, Grundy, Jackson, Lafayette, Linn, Livingston, Mercer, Putnam, Ray, Saline, Sullivan.

Area II—Adair, Audrain, Clark, Knox, Lewis, Macon, Marion, Monroe, Pike, Ralls, Schuyler, Scotland, Shelby.

Area III—Andrew, Atchison, Buchanan, Clay, Clinton, Daviess, De Kalb, Gentry, Harrison, Holt, Nodaway, Platte, Worth.

Area IV—Callaway, Cole, Franklin, Gasconade, Jefferson, Lincoln, Maries, Montgomery, Osage, Phelps, St. Charles, St. Louis, Warren.

Area V—Carter, Crawford, Dent, Iron, Madison, Perry, Reynolds, St. Francois, Ste. Genevieve, Shannon, Washington, Wayne.

Area VI—Bollinger, Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Ripley, Scott, Stoddard.

Area VII—Barry, Christian, Dade, Douglas, Greene, Howell, Jasper, Lawrence, McDonald, Newton, Ozark, Stone, Taney.

Area VIII—Barton, Camden, Cedar, Dallas, Hickory, Laclede, Polk, Pulaski, St. Clair, Texas, Vernon, Webster, Wright.

Area IX—Bates, Benton, Boone, Cass, Cooper, Henry, Howard, Johnson, Miller, Moniteau, Morgan, Pettis, Randolph.

NEBRASKA

Counties of:

Area I—Banner, Box Butte, Dawes, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux.

Area II—Arthur, Blaine, Brown, Buffalo, Cherry, Custer, Dawson, Garfield, Grant, Hooker, Keya Paha, Lincoln, Logan, Loup, McPherson, Rock, Thomas, Wheeler.

Area III—Antelope, Boyd, Cedar, Dakota, Dixon, Holt, Knox, Madison, Pierce, Stanton, Wayne.

Area IV—Chase, Cheyenne, Deuel, Dundy, Frontier, Hayes, Hitchcock, Keith, Perkins, Red Willow.

Area V—Adams, Franklin, Furnas, Gosper, Hall, Hamilton, Harlan, Kearney, Phelps, Webster.

Area VI—Boone, Howard, Greeley, Merrick, Nance, Platte, Polk, Sherman, Valley.

Area VII—Butler, Clay, Colfax, Fillmore, Lancaster, Saline, Saunders, Seward, York.

Area VIII—Burt, Cass, Cuming, Dodge, Douglas, Otoe, Sarpy, Thurston, Washington.

Area IX—Gage, Jefferson, Johnson, Nemaha, Nuckolls, Pawnee, Richardson, Thayer.

NEVADA

Area—Clark, Nye.

NEW HAMPSHIRE

Area—Entire State.

NEW JERSEY

Area—Entire State.

NEW MEXICO

Counties of:

Area I—Colfax, Curry, DeBaca, Guadalupe, Harding, Mora, Quay, Roosevelt, San Miguel, Union.

Area II—Bernalillo, McKinley, Rio Arriba, Sandoval, San Juan, Santa Fe, Taos, Torrance, Valencia.

Area III—Catron, Dona Ana, Grant, Hidalgo, Luna, Sierra, Socorro.

Area IV—Chaves, Eddy, Lea, Lincoln, Otero.

NEW YORK

Counties of:

Area I—Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Cortland, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, Wyoming, Yates.

Area II—Albany, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Herkimer, Jefferson, Lewis, Madison, Montgomery, Nassau, Oneida, Orange, Oswego, Otsego, Putnam, Rensselaer, Richmond, Rockland, St. Lawrence, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren, Washington, Westchester.

NORTH CAROLINA

Counties of:

Area I—Alleghany, Ashe, Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Swain, Transylvania, Watauga, Yancey.

Area II—Alexander, Burke, Cabarrus, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Polk, Rutherford, Stanly, Union, Wilkes.

Area III—Anson, Davidson, Davie, Forsyth, Guilford, Montgomery, Randolph, Richmond, Rockingham, Rowan, Stokes, Surry, Yadkin.

Area IV—Alamance, Caswell, Chatham, Durham, Franklin, Granville, Orange, Person, Vance, Wake, Warren.

Area V—Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wilson.

Area VI—Carteret, Craven, Duplin, Greene, Johnston, Jones, Lenoir, Onslow, Pamlico, Wayne.

Area VII—Cumberland, Harnett, Hoke, Lee, Moore, Sampson.

Area VIII—Bladen, Brunswick, Columbus, New Hanover, Pender, Robeson, Scotland.

NORTH DAKOTA

Counties of:

Area I—Burke, Divide, McKenzie, Williams.

Area II—McLean, Mountrail, Renville, Ward.

Area III—Bottineau, McHenry, Pierce, Rolette, Towner.

Area IV—Eddy, Foster, Sheridan, Wells.

Area V—Cavalier, Grand Forks, Pembina, Ramsey, Walsh.

Area VI—Benson, Griggs, Nelson, Steele, Traill.

Area VII—Adams, Billings, Bowman, Golden Valley, Slope.

Area VIII—Dunn, Grant, Hettinger, Stark.

Area IX—Burleigh, Mercer, Morton, Oliver, Sioux.

Area X—Emmons, Kidder, Logan, McIntosh.

Area XI—Barnes, Dickey, LaMoure, Stutsman.

Area XII—Cass, Ransom, Richland, Sargent.

OHIO

Area I—Erie, Fulton, Hancock, Henry, Huron, Lucas, Ottawa, Sandusky, Seneca, Wood.

Area II—Ashland, Coshocton, Holmes, Knox, Licking, Morrow, Muskingum, Richland, Wayne.

Area III—Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Mahoning, Medina, Portage, Summit, Trumbull.

Area IV—Defiance, Paulding, Putnam, Van Wert, Williams.

Area V—Allen, Auglaize, Hardin, Logan, Mercer.

Area VI—Crawford, Delaware, Fayette, Franklin, Madison, Marion, Pickaway, Union, Wyandot.

Area VII—Butler, Champaign, Clark, Darke, Greene, Hamilton, Miami, Montgomery, Preble, Shelby, Warren.

Area VIII—Adams, Brown, Clermont, Clinton, Highland.

Area IX—Jackson, Lawrence, Pike, Ross, Scioto.

Area X—Athens, Fairfield, Gallia, Hocking, Meigs, Monroe, Morgan, Noble, Perry, Vinton, Washington.

Area XI—Belmont, Carroll, Columbiana, Guernsey, Harrison, Jefferson, Stark Tuscarawas.

OKLAHOMA

Counties of:

Area I—Beaver, Cimarron, Custer, Dewey, Ellis, Harper, Roger Mills, Texas, Woods, Woodward.

Area II—Alfalfa, Garfield, Grant, Kay, Major, Noble, Osage.

Area III—Adair, Cherokee, Craig, Delaware, Mayes, Muskogee, Nowata, Okmulgee, Ottawa, Rogers, Tulsa, Wagoner, Washington.

Area IV—Blaine, Canadian, Creek, Hughes, Kingfisher, Lincoln, Logan, Okfuskee, Oklahoma, Pawnee, Payne, Pottawatomie, Seminole.

Area V—Beckham, Greer, Harmon, Jackson, Kiowa, Tillman, Washita.

Area VI—Caddo, Carter, Cleveland, Coal, Comanche, Cotton, Garvin, Grady, Jefferson, Johnston, Love, McClain, Marshall, Murray, Pontotoc, Stephens.

Area VII—Atoka, Bryan, Choctaw, Haskell, Latimer, LeFlore, McCurtain, McIntosh, Pittsburg, Pushmataha, Sequoyah.

OREGON

Counties of:

Area I—Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, Wheeler.

Area II—Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill.

PENNSYLVANIA

Counties of:

Area I—Allegheny, Beaver, Butler, Crawford, Erie, Forest, Lawrence, Mercer, Venango, Warren, Washington.

Area II—Armstrong, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Indiana, Jefferson, McKean, Potter.

Area III—Bedford, Blair, Cambria, Fayette, Fulton, Greene, Huntingdon, Mifflin, Somerset, Westmoreland.

Area IV—Adams, Chester, Cumberland, Dauphin, Delaware, Franklin, Juniata, Lancaster, Perry, York.

Area V—Bradford, Lackawanna, Lycoming, Montour, Northumberland, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming.

Area VI—Berks, Bucks, Carbon, Columbia, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Philadelphia, Pike, Schuylkill.

RHODE ISLAND

None.

SOUTH CAROLINA

Area I—Abbeville, Anderson, Greenville, Greenwood, Laurens, Oconee, Pickens, Spartanburg.

Area II—Aiken, Edgefield, Fairfield, Lexington, McCormick, Newberry, Saluda.

Area III—Bamberg, Barnwell, Calhoun, Clarendon, Orangeburg, Richland, Sumter.

Area IV—Allendale, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper.

Area V—Darlington, Dillon, Florence, Georgetown, Horry, Marion, Marlboro, Williamsburg.

Area VI—Cherokee, Chester, Chesterfield, Kershaw, Lancaster, Lee, Union, York.

SOUTH DAKOTA

Counties of:

Area I—Butte, Corson, Dewey, Harding, Lawrence, Meade, Perkins, Ziebach.

Area II—Bennett, Custer, Fall River, Haakon, Jackson, Jones, Mellette, Pennington, Shannon, Todd, Washabaugh.

Area III—Aurora, Bon Homme, Brule, Buffalo, Charles Mix, Douglas, Gregory, Lyman, Tripp, Yankton.

Area IV—Clay, Davison, Hanson, Hutchinson, Lincoln, McCook, Moody, Minnehaha, Turner, Union.

Area V—Brookings, Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, Roberts.

Area VI—Beadle, Hand, Hyde, Jerauld, Kingsbury, Lake, Miner, Sanborn, Spink.

Area VII—Brown, Campbell, Edmunds, Faulk, Hughes, McPherson, Potter, Stanley, Sully, Walworth.

TENNESSEE

Counties of:

Area I—Carter, Cocke, Greene, Hamblen, Hawkins, Jefferson, Johnson, Sullivan, Unicoi, Washington.

Area II—Anderson, Blount, Campbell, Claiborne, Grainger, Hancock, Knox, Scott, Sevier, Union.

Area III—Bradley, Hamilton, Loudon, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane.

Area IV—Bledsoe, Cumberland, DeKalb, Fentress, Overton, Pickett, Putnam, Van Buren, Warren, White.

Area V—Bedford, Cannon, Coffee, Franklin, Grundy, Lincoln, Marion, Moore, Rutherford, Sequatchie.

Area VI—Clay, Davidson, Jackson, Macon, Robertson, Smith, Sumner, Trousdale, Wilson.

Area VII—Decatur, Giles, Lawrence, Lewis, Marshall, Maury, Perry, Wayne, Williamson.

Area VIII—Benton, Cheatham, Dickson, Henry, Hickman, Houston, Humphreys, Montgomery, Stewart.

Area IX—Chester, Fayette, Hardeman, Hardin, Haywood, McNairy, Madison, Shelby, Tipton.

Area X—Carroll, Crockett, Dyer, Gibson, Henderson, Lake, Lauderdale, Obion, Weakley.

TEXAS

Counties of:

Area I—Dallam, Hartley, Moore, Sherman.

Area II—Hansford, Hutchinson, Lipscomb, Ochiltree.

Area III—Armstrong, Carson, Deaf Smith, Oldham, Potter, Randall.

Area IV—Gray, Hemphill, Roberts, Wheeler.

Area V—Bailey, Castro, Lamb, Parmer.

Area VI—Briscoe, Floyd, Hale, Swisher.

Area VII—Cochran, Hockley, Terry, Yoakum.

Area VIII—Crosby, Garza, Lubbock, Lynn.

Area IX—Childress, Collingsworth, Donley, Hall.

Area X—Cottle, Dickens, Kent, King, Motley, Stonewall.

Area XI—Foard, Hardeman, Wilbarger.

Area XII—Baylor, Haskell, Knox, Throckmorton.

Area XIII—Collin, Cooke, Denton, Grayson.

Area XIV—Delta, Fannin, Hunt, Lamar, Rockwall.

Area XV—Dallas, Ellis, Johnson, Kaufman, Tarrant.

Area XVI—Bowie, Franklin, Morris, Red River, Titus.

Area XVII—Henderson, Hopkins, Rains, Smith, Van Zandt, Wood.

Area XVIII—Camp, Cass, Gregg, Harrison, Marion, Upshur.

Area XIX—Andrews, Dawson, Gaines, Glasscock, Martin, Midland.

Area XX—Borden, Coke, Howard, Mitchell, Scurry, Sterling.

Area XXI—Fisher, Jones, Nolan, Runnels, Taylor.

Area XXII—Archer, Clay, Wichita, Young.

Area XXIII—Jack, Montague, Parker, Wise.

Area XXIV—Callahan, Eastland, Shackelford, Stephens.

Area XXV—Comanche, Erath, Hood, Palo Pinto, Somervell.

Area XXVI—Bosque, Hill, McLennan, Navarro.

Area XXVII—Bell, Falls, Milam, Williamson.

Area XXVIII—Freestone, Leon, Limestone, Madison, Robertson.

Area XXIX—Anderson, Cherokee, Houston, Rusk.

Area XXX—Angelina, Nacogdoches, Panola, Sabine, San Augustine, Shelby.

Area XXXI—Montgomery, San Jacinto, Trinity, Walker.

Area XXXII—Jasper, Newton, Polk, Tyler.

Area XXXIII—Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler.

Area XXXIV—Crane, Crockett, Ector, Irion, Reagan, Schleicher, Sutton, Tom Green, Upton.

Area XXXV—Brown, Coleman, Concho, McCulloch, San Saba.

Area XXXVI—Blanco, Gillespie, Kimble, Llano, Mason, Menard.

Area XXXVII—Burnet, Coryell, Hamilton, Lampasas, Mills.

Area XXXVIII—Caldwell, Guadalupe, Hays, Travis.

Area XXXIX—Bastrop, Fayette, Lavaca, Lee.

Area XL—Brazos, Burleson, Grimes, Washington.

Area XLI—DeWitt, Goliad, Gonzales, Karnes.

Area XLII—Calhoun, Colorado, Jackson, Victoria, Wharton.

Area XLIII—Austin, Brazoria, Fort Bend, Matagorda, Waller.

Area XLIV—Chambers, Galveston, Hardin, Harris, Jefferson, Liberty, Orange.

Area XLV—Bandera, Comal, Edwards, Kendall, Kerr, Real.

Area XLVI—Dimmit, Kinney, Maverick, Uvalde, Val Verde, Zavala.

Area XLVII—Atascosa, Bexar, Frio, LaSalle, McMullen, Medina, Wilson.

Area XLVIII—Aransas, Bee, Live Oak, Refugio, San Patricio.

Area XLIX—Brooks, Jim Hogg, Webb, Zapata.

Area L—Duval, Jim Wells, Kenedy, Kleberg, Nueces.

Area LI—Cameron, Hidalgo, Starr, Willacy.

UTAH

Area—Entire State.

VERMONT

None.

VIRGINIA

Counties of:

Area I—Accomack, Amelia, Brunswick, Chesterfield, Dinwiddie, Greensville, Isle of Wight, Nansemond, Norfolk, Northampton, Nottoway, Powhatan, Prince George, Princess Anne, Southampton, Surry, Sussex.

Area II—Amherst, Appomattox, Bedford, Botetourt, Buckingham, Campbell, Charlotte, Craig, Cumberland, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Nelson, Patrick, Pittsylvania, Prince Edward, Roanoke.

Area III—Bland, Buchanan, Carroll, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe.

Area IV—Caroline, Charles City, Essex, Fluvanna, Gloucester, Goochland, Hampton, Hanover, Henrico, James City, King & Queen, King George, King William, Lancaster, Louisa, Mathews, Middlesex, New Kent, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland, Warwick, York.

Area V—Albemarle, Alleghany, Augusta, Bath, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Greene, Highland, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockbridge, Rockingham, Shenandoah, Warren.

WASHINGTON

Counties of:

Area I—Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla, Whitman.

Area II—Douglas, Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens.

Area III—Adams, Chelan, Grant, Kittitas, Klickitat, Yakima.

WEST VIRGINIA

Counties of:

Area I—Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, Pendleton, Preston.

Area II—Barbour, Braxton, Calhoun, Gilmer, Lewis, Pocahontas, Randolph, Taylor, Tucker, Upshur, Webster.

Area III—Brooke, Doddridge, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Pleasants, Ritchie, Tyler, Wetzel.

Area IV—Cabell, Jackson, Lincoln, Mason, Mingo, Putnam, Roane, Wayne, Wirt, Wood.

Area V—Boone, Clay, Fayette, Greenbrier, Kanawha, Logan, McDowell, Mercer, Monroe, Nicholas, Raleigh, Summers, Wyoming.

WISCONSIN

Counties of:

Area I—Calumet, Columbia, Dane, Dodge, Door, Fond du Lac, Green, Green Lake, Jefferson, Kenosha, Kewaunee, Manitowoc, Marquette, Milwaukee, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, Waushara, Winnebago.

Area II—Adams, Buffalo, Chippewa, Clark, Crawford, Dunn, Eau Claire, Grant, Iowa, Jackson, Juneau, La Crosse, Lafayette, Monroe, Pepin, Richland, Sauk, Trempealeau, Vernon, Wood.

Area III—Ashland, Barron, Bayfield, Brown, Burnett, Douglas, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Oconto, Oneida, Outagamie, Pierce, Polk, Portage, Price, Rusk, St. Croix, Sawyer, Shawano, Taylor, Vilas, Washburn, Waupaca.

WYOMING

Counties of:

Area I—Converse, Goshen, Laramie, Niobrara, Platte.

Area II—Campbell, Crook, Johnson, Sheridan, Weston.

Area III—Albany, Carbon, Lincoln, Natrona, Sublette, Sweetwater, Teton, Uinta.

Area IV—Big Horn, Fremont, Hot Springs, Park, Washakie.

PUERTO RICO

Counties of:

Area I—North Area, South Area.

(Sec. 3, 60 Stat. 238; 5 U.S.C. 1002. Interprets or applies sec. 363, 52 Stat. 63, as amended; 7 U.S.C. 1363)

Done at Washington, D.C., this 16th day of February 1959. Witness my hand and the seal of the Department of Agriculture.

[SEAL] WALTER C. BERGER,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59-1549; Filed, Feb. 19, 1959; 8:51 a.m.]

Office of the Secretary

ADMINISTRATOR, FOREIGN AGRICULTURAL SERVICE

Delegation of Authority to Negotiate Contract for Design, Construction and Operation of Trade Fair Exhibit; Amendment

Pursuant to the authority vested in the Secretary of Agriculture by the Administrator, General Services Administration, under date of October 7, 1953 (23 F.R. 7935), delegation of authority to the Administrator, Foreign Agricultural Service (23 F.R. 8360) dated October 24, 1958, is hereby amended to delete the word "mobile" as appears in Paragraph 1 of said delegation. All remaining portions of the delegation are to remain in full force and effect.

Done at Washington, D.C., this 16th day of February 1958.

[SEAL] RALPH S. ROBERTS,
Administrative Assistant Secretary.

[F.R. Doc. 59-1550; Filed, Feb. 19, 1959; 8:51 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

JOHN G. KAIN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests last as reported in the FEDERAL REGISTER.

A. Deletions: None.
B. Additions: None.

This statement is made as of January 25, 1959.

JOHN G. KAIN.

[F.R. Doc. 59-1532; Filed, Feb. 19, 1959; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-91]

AEROJET-GENERAL NUCLEONICS

Notice of Amendment to Construction Permit

Please take notice that the Atomic Energy Commission has issued Amendment No. 2, set forth below, to Construction Permit No. CPRR-23 extending the latest completion dates for nuclear reactors Model AGN-201, Serial Nos. 121 through 125.

Dated at Germantown, Md., this 13th day of February 1959.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of Licensing and Regulation.

[Construction Permit No. CPRR-23; Amdt. 2]

Condition A. of CPRR-23 is hereby amended in the following respects:

The latest completion dates for reactors Model AGN-201 Serial Nos. 121 through 125 are as follows:

AGN Serial No.	*Latest completion date*
121	February 1, 1960.
122	March 1, 1960.
123	April 1, 1960.
124	May 1, 1960.
125	June 1, 1960.

This amendment is effective as of the date of issuance.

Date of issuance: February 13, 1959.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of Licensing and Regulation.

[F.R. Doc. 59-1504; Filed, Feb. 19, 1959; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11788, etc.; FCC 59M-209]

JAMES W. MILLER ET AL.

Order Continuing Hearing

In re applications of James W. Miller, Milford, Connecticut, Docket No. 11788, File No. BP-10500; Orange County Broadcasting Corporation (WGNY), Newburgh, New York, Docket No. 12411, File No. BP-11365; Vincent De Laurentis, Hamden, Connecticut, Docket No. 12412, File No. BP-11607; Albert L. Capstaff, tr/as Eastern States Broadcasting Co., Hamden, Connecticut, Docket No. 12413, File No. BP-11760; for construction permits.

The Hearing Examiner having under consideration motion for continuance filed by Vincent De Laurentis on February 12, 1959;

It appearing, that counsel for all parties have agreed to the continuance requested;

It is ordered, This 13th day of February 1959, that the motion is granted, and that the hearing presently scheduled for February 16, 1959 is continued until April 13, 1959.

Released: February 13, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-1536; Filed, Feb. 19, 1959; 8:49 a.m.]

[Docket No. 11997; FCC 59-114]

ALLOCATION OF FREQUENCIES TO VARIOUS NON-GOVERNMENTAL SERVICES

Second Notice of Hearing

In the matter of statutory inquiry into the allocation of frequencies to the various non-governmental services in the radio spectrum between 25 Mc and 890 Mc.

The Commission has reviewed the Statements of Proposed Evidence filed in the above-entitled Docket and has determined to follow the procedure set forth below in conducting further proceedings.

(a) Witnesses on behalf of those parties who have previously filed Statements of Proposed Evidence shall file a notarized original and 20 copies of their direct testimony and all exhibits with the Commission on or before March 30, 1959. Oral presentation of direct testimony will be limited to a summary explanation of the written statements and exhibits, and shall not exceed 15 minutes for each witness. Copies of the direct testimony and exhibits of each witness will be available in the Commission's Public Reference Room.

(b) As soon as possible after March 30, 1959, the Commission will designate the witnesses to be called, as well as the date when testimony will begin. The choice of witnesses to be called for oral testimony and cross-examination will be made solely by the Commission, and the Commission reserves the right to call for cross-examination parties who have filed written statements but who did not indicate a desire to present oral testimony. All cross-examination will be conducted by the Commission and its staff, but an opportunity will be afforded to the parties to suggest questions for cross-examination.

(c) The Commission will determine at a later date what further proceedings, if any, will be conducted, including the question of whether an opportunity will be afforded for rebuttal testimony and, if so, whether such rebuttal will be presented orally or in writing.

Adopted: February 11, 1959.

Released: February 16, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-1537; Filed, Feb. 19, 1959; 8:49 a.m.]

[Docket No. 12068; FCC 59-105]

FLORENCE BROADCASTING CO., INC.

Order Designating Application for Hearing on Stated Issues

In re application of Florence Broadcasting Company, Inc., Brownsville, Tennessee, Docket No. 12068, File No. BP-10850; for construction permit.

At a session of the Federal Communications Commission held at its offices

in Washington, D.C., on the 11th day of February 1959;

The Commission having under consideration the above-captioned application of the Florence Broadcasting Company, Inc. for a construction permit for a new standard broadcast station to operate on 1420 kilocycles with a power of 500 watts, daytime only, at Brownsville, Tennessee; and

It appearing, that, except as indicated by the issues specified below, the applicant is legally, technically and otherwise qualified to operate the proposed station but that the proposed operation would cause objectionable interference to stations KPOC, Pocahontas, Arkansas, WSUH, Oxford, Mississippi, and WHER, Memphis, Tennessee; and that the application does not include sufficient financial data to establish the financial qualifications of the applicant; and

It further appearing, that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the applicant and stations KPOC, WSUH, WHER, were advised by letter dated November 4, 1958, of the aforementioned deficiencies, and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing, that, the applicant filed a timely reply to the Commission's letter; and

It further appearing, that, by letters dated November 24, 1958, December 2, 1958, and December 2, 1958, the licensees of KPOC, WSUH, WHER, respectively, expressed an intention of appearing at a hearing on the application; and

It further appearing, that, in an amendment filed January 26, 1959, the applicant submitted additional financial data which are insufficient to establish the applicant's financial qualifications; and

It further appearing, that, the Commission, after consideration of the above, is of the opinion that a hearing on the application is necessary;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, that application is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the proposed operation, and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operation would cause objectionable interference to stations KPOC, Pocahontas, Arkansas, WSUH, Oxford, Mississippi, and WHER, Memphis, Tennessee, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether the applicant is financially qualified to construct and operate the proposed station.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience and necessity.

It is furthered ordered, That, Pocahontas Radio, Inc.; C. H. Quick and A. B. Quick, d/b as Colonel Rebel Radio; and the Tri-State Broadcasting Service, Inc., licensees of stations KPOC, WSUH and WHER, respectively, are made parties to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and respondents herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear at a date fixed for the hearing and present evidence on the issues specified in this order.

Released: February 16, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-1538; Filed, Feb. 19, 1959; 8:50 a.m.]

[Docket No. 12068; FCC 59M-218]

FLORENCE BROADCASTING CO., INC.

Order Scheduling Hearing

In re application of Florence Broadcasting Company, Inc., Brownsville, Tennessee, Docket No. 12068, File No. BP-10850; for construction permit.

It is ordered, This 12th day of February 1959, that Charles J. Frederick will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 8, 1959, in Washington, D.C.

Released: February 17, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-1539; Filed, Feb. 19, 1959; 8:50 a.m.]

[Docket Nos. 12539, 12540; FCC 59M-212]

PRESS WIRELESS, INC.

Order Scheduling Prehearing Conference

In the matter of the applications of Press Wireless, Inc., Docket No. 12539, File No. 2579-C4-ML-58 and Docket No. 12540, File No. 2580-C4-ML-58; for modification of its Centereach, N.Y., and Belmont, Calif., fixed public press station licenses to permit the handling of traffic specified in proposed Tariff F.C.C. No. 34 (International Telecon Service), and certain other non-press communications.

The prehearing conference in the above-entitled proceeding will be resumed on Wednesday, February 25, 1959, beginning at 10:00 a.m. in the offices of the Commission, Washington, D.C.

It is so ordered, This the 16th day of February 1959.

Released: February 16, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-1540; Filed, Feb. 19, 1959; 8:50 a.m.]

[Docket No. 12601; FCC 59M-210]

ROUNSAVILLE OF CINCINNATI, INC. (WCIN)

Order Continuing Hearing

In the matter of Rounsaville of Cincinnati, Inc. (WCIN), Cincinnati, Ohio; Docket No. 12601, File No. BP-11539; for construction permits.

The Hearing Examiner having under consideration an informal request of Rounsaville of Cincinnati, Inc., for continuance of the hearing herein presently scheduled for February 16, 1959, to March 2, 1959;

It appearing, that all parties have consented to immediate consideration and grant of the said request and that good cause for a grant thereof has been shown in that the continuance is necessary to permit preparation of additional evidence requested by the Commission's Broadcast Bureau;

It is ordered, This 13th day of February 1959 that the hearing herein is continued from February 16, 1959, to March 2, 1959, to commence at 10:00 a.m. in the offices of the Commission at Washington, D.C.

Released: February 16, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-1541; Filed, Feb. 19, 1959; 8:50 a.m.]

[Docket No. 12693; FCC 59M-211]

TOBACCO VALLEY BROADCASTING CO.

Order Continuing Hearing

In re application of The Tobacco Valley Broadcasting Company, Windsor, Connecticut, Docket No. 12693, File No. BP-11339; for construction permit.

The Hearing Examiner having under consideration the above-captioned application and the pendency of the respective applications of Telecolor Corporation (WTXL), West Springfield, Massachusetts, and Milford Broadcasting Corporation (WMRC), Milford, Massachusetts [1];

It appearing, that by letter dated February 6, 1959, the Commission notified each of the above-named applicants of the necessity for consolidating the

[1] The WTXL application is identified by File No. BP-12632; and the WMRC application, by File No. BP-12210.

WTXL and WMRC applications for hearing with the Tobacco Valley Broadcasting Company application in view of mutual interference problems raised, and also afforded them 30 days for filing replies to the notification; and

It further appearing, that orderly procedure dictates the postponement of the hearing in the instant matter pending submission of such replies, the Commission's consideration thereof, and its further action on the WXTL and WMRC applications;

Accordingly, on the Hearing Examiner's own motion, *it is ordered*, This 13th day of February 1959, that the hearing in this proceeding heretofore schedule to commence on February 20, 1959, is continued to a date to be set by subsequent order of the Hearing Examiner.[2]

Released: February 16, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-1542; Filed, Feb. 19, 1959; 8:50 a.m.]

[Docket No. 12762; FCC 59-109]

PACIFIC BROADCASTERS CORP.

Memorandum Opinion and Order Designating Application for Oral Argument

In re application of: Pacific Broadcasters Corporation, Bakersfield, California, Docket No. 12762, File No. BPCT-2492; for construction permit for a new television broadcast station.

1. The Commission has before it for consideration (a) a "Protest and Petition For Reconsideration" filed on January 12, 1959, by Bakersfield Broadcasting Company (hereinafter referred to as protestant), licensee of Television Station KBAK-TV, Channel 29, Bakersfield, California, directed against the Commission's actions of December 10, 1958, granting the application of Pacific Broadcasters Corporation (Pacific) for a new television broadcast station to operate on Channel 39, Bakersfield, California and denying protestant's "Motion For Stay;" (b) an "Opposition To Protest and Petition For Reconsideration" filed January 21, 1959, by Pacific Broadcasters Corporation; and (c) a "Reply" thereto filed by protestant on January 28, 1959.

2. Protestant claims standing to protest and request reconsideration as the licensee of a television station in Bakersfield. It alleges that it will compete with Pacific for local and national advertising and thus will be adversely affected competitively by the grant.

3. In support of its protest, protestant alleges in substance, that on April 9, 1957, it sought deletion of Channel 10 from Bakersfield so that the San Joaquin Valley might be an all UHF area, and that this petition is still pending; that instead of granting the relief requested, the Commission in a Report and Order of January 6, 1958, in Docket 11785, added Channels 17 and 39 to Bakersfield without reference to any principle and without reasons; that as a result, protestant modified its proposal to delete Channel 10, to provide, in the alternative for the addition of Channels 8 and 12, shown to be prima facie feasible; that the Commission has had sufficient time to establish the development of television in the San Joaquin Valley; and that failure to decide whether the area will be all UHF or all VHF prior to the grant in question was improper. Protestant argues that the conditions attached to the Pacific construction permit[1] are meaningless in the absence of a finding or indication of the availability of other suitable channels. Additionally, protestant contends that the second condition is ambiguous in that it does not limit or qualify the Commission's "apparent promise to substitute another channel" should it decide to delete Channel 39. Moreover, protestant questions whether, should the Commission decide to deintermix Bakersfield on an all VHF basis, it could legally give Pacific a channel, since there are four construction permits outstanding in Bakersfield and it has not been demonstrated that there are enough VHF channels for all. The protestant also asserts that recent grantees should not be enabled to raise a claim of right as against long existing stations, and that the Commission has not shown that it is possible to make an adequate UHF substitution for Channel 39 or that a fourth VHF channel is a technical possibility. These are matters, asserts protestant, which substantially and vitally affect the rights of the protestant and the interests of the public of Bakersfield and can be determined only on the basis of evidence. Protestant also asserts that the Commission's action is inconsistent with the public interest insofar as it places an additional financial burden on the public, because it appears that half of the television receivers in the area are older type receivers which had to be converted in order to receive UHF signals; that such conversion consisted of the addition of a strip tuner to receive Channel 29; that additional strips would be required for each new channel; and that such expenditures are unjust in the absence of a determination as to whether Bakersfield will ultimately be either all UHF or all VHF.

4. Protestant, in view of the foregoing allegations, requests that the denial of its "Motion For Stay" be reconsidered and granted or that its protest be granted and the grant to Pacific be set aside or the effective date thereof be stayed. Protestant further requests that the application be set for evidentiary hearing upon the following issues:

a. To determine the full facts with respect to the number of receivers in the Bakersfield area which would require conversion if the random drop-in of additional UHF stations, particularly 39, is made final.

b. To determine the cost to members of the public of conversion of receivers to Channel 39 and the extent of the burden and waste in that connection in the event the Commission should hereafter decide to de-intermix Bakersfield on a VHF basis.

c. To obtain full information with respect to the cost and burdens on the public of obtaining all channel receivers in order to be able to receive Channel 39 in the light of undetermined questions as to whether the area should be all VHF or all UHF.

d. To determine whether other suitable channels could, in fact, be substituted for Channel 39 in the event the Commission should be compelled to fulfill the condition which it has proposed be applied to grant of the application of Pacific Broadcasters Corporation.

e. To determine whether, in the event the area is made all VHF, enough VHF channels are available to substitute for existing and proposed UHF facilities at Bakersfield.

f. To obtain full information with respect to other adverse effects upon the public which would result from the addition of more UHF stations in Bakersfield while the basic policy question as to whether the area is to become all VHF remains unsettled.

g. To determine whether the public interest would be better served by deferring grant of application for additional UHF channels in Bakersfield pending (1) final action on the Petition for Review of Commission action in allocating these channels in Bakersfield; or (2) Commission determination as to the kind of allocation, i.e., VHF, UHF, or mixed, which is to prevail in Bakersfield in the future.

5. In its opposition, Pacific contends that in order to establish standing a protestant must show that the injury or aggrievement results from the action complained of and not by some other action; that the mere fact of being an existing licensee does not of itself create a right to protest or request reconsideration of every broadcast grant in the same city, but that the protestant must show injury flowing from the grant in question; and that the essence of protestant's claim arises not from the grant of Channel 39 to Pacific but from the Commission's prior action assigning Channel 39 to Bakersfield, from which action protestant has taken an appeal (Case No. 14,541). Consequently, Pacific asserts that protestant has failed to make a showing that it had standing. With respect to the alleged impropriety of the Commission's action, Pacific asserts that there is no rule or law which prohibits

[2] By an order (FCC 58-M-1505) released December 29, 1958, the Hearing Examiner has postponed the prehearing conference, originally scheduled for January 5, 1959, to a date to be set by his subsequent order.

[1] These conditions are as follows:

(a) That such grant is without prejudice to such action as the Commission may take as a result of a decision of the U.S. Court of Appeals for the District of Columbia Circuit Bakersfield Broadcasting Co. v. United States and F.C.C. (Case No. 14,541).

(b) That the Commission may, without further proceedings, substitute for Channel 39 such other channel as may be assigned to Bakersfield, California as a result of rule-making proposals currently pending before the Commission.

the Commission from granting an application for a channel listed under § 3.606 of the rules, even though there was then pending a proceeding to modify the particular assignment, particularly where the grant is expressly conditioned on the outcome of an appeal taken from the action allocating said channel. Pacific contends also that the matters on which protestant requests to be heard are matters pertaining to rule making and are not matters which can be considered in an adjudicatory proceeding, so that even if protestant is found to have standing, the questions raised are purely legal in nature and can be disposed of as on demurrer after oral argument.

6. Pacific also alleges that the Motion for Stay cannot be considered inasmuch as protestant has failed to comply with the provisions of § 1.12 of the rules, by not filing a separate pleading and that, in any event, protestant has not shown any likelihood of prevailing on the merits and the Commission having decided that Bakersfield is in need of the additional service, the grant should not be stayed. In view of the foregoing Pacific requests that the protest be dismised for lack of standing, or that it be designated for oral argument only, as on demurrer.

7. Protestant's reply in substance urges that Pacific's contention that it has no standing is not supported by the cases cited; that Pacific's claim that the injury complained of flows not from the grant but the assignment of Channel 39 is specious; that seeking appropriate relief from rule making orders does not bar it from the relief provided by sections 309(c) and 405 of the Communications Act; and that despite Pacific's position that a stay requires a separate document, it is clear that under section 309(c) of the Communications Act consideration of stay question is mandatory.

8. Inasmuch as protestant is the licensee of Station KBAK–TV, Channel 29, Bakersfield, California, and has alleged that it will be adversely affected by the grant in question by virtue of the competition for local and national advertising revenues, we find protestant to be a "party in interest" and "a person aggrieved or whose interests are adversely affected" within the meaning of sections 309(c) and 405, respectively, of the Communications Act of 1934, as amended, Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470; In re T. E. Allen & Sons, Inc., 9 Pike & Fischer RR 197. We further find that protestant has specified with sufficient particularity the facts relied upon to warrant designating the above-captioned application for hearing upon the issues specified. The initial question to be determined is the type of hearing required by the issues specified.

9. Upon examination of the issues proposed by protestant, in the light of the facts stated in support thereof, we believe that all or most of these issues relate to the basic questions already resolved in the rule making proceedings assigning Channels 17 and 39 to Bakersfield over the objections of the protestant. The validity of this determination is now being challenged in court (see Bakersfield Broadcasting Co. v. United States, Case No. 14,541 C.A.D.C.), and of course the grants we have made on these channels are subject to the outcome of this appeal as we expressly stated in conditioning such grants. We have grave doubts, however, that assuming the validity of the rule making action, any of the facts or factual questions presented in the protest set forth grounds which would show that the grants were improperly made or otherwise contrary to the public interest. See Coastal Bend Television Co. v. Federal Communications Commission, 98 U.S. App. D.C. 251, 234 F. 2d 686. We shall therefore designate the protest for oral argument as on demurrer, to afford the protestant an opportunity to show that resolution of any of the factual matters upon which it seeks evidentiary hearing are relevant to the questions as to whether the grants upon the channels we have recently assigned to Bakersfield would serve the public interest. Upon the basis of such argument, we shall determine whether the subject grant may be reaffirmed or whether an evidentiary hearing on one or more of the issues is required.

10. We turn now to the question of whether we should stay the effective date of the grant in question. Section 309(c) provides in pertinent part that "the effective date of the Commission's action to which the protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect * * *". It is obvious that the authorization in question is not essential to the conduct of an existing service. Moreover, the Commission is of the view that the reasons advanced by Pacific in opposition to the stay do not suffice to warrant an affirmative finding that the public interest requires the grant remain in effect in view of the fact that there are two television stations currently in operation in Bakersfield. Consequently, the effective date of the Commission's action here in question will be postponed pending a final decision in the oral argument hereinafter ordered.

In view of the foregoing: *It is ordered,* That the subject Protest and Petition for Reconsideration is granted to the extent provided for below and is denied in all other respects; and that, pursuant to section 309(c) of the Communications Act of 1934, as amended, the above-captioned application is designated for oral argument, at the offices of the Commission at Washington, D.C., on March 5, 1959 at 2:30 p.m. to consider whether any of the questions set forth by protestant in its proposed issues for hearing herein present matters of fact or law which would warrant setting aside the grant.

It is further ordered, That effective immediately, the effective date of the grant of the above-captioned application is postponed pending a final determination by the Commission after the oral argument.

It is further ordered, That Bakersfield Broadcasting Company is hereby made a party to the proceeding herein, and that the appearances by the parties intending to participate in the above oral argument shall be filed not later than February 25, 1959.

Adopted: February 11, 1959.

Released: February 17, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59–1543; Filed, Feb. 19, 1959; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G–10396 etc.]

AMERICAN LOUISIANA PIPE LINE CO. ET AL.

Order Denying Applications for Rehearing, Granting Stay and Fixing Hearing on Allocation of Gas

FEBRUARY 13, 1959.

In the matters of American Louisiana Pipe Line Company, Docket No. G–10396; Gulf Oil Corporation, Docket No. G–10400; Panhandle Eastern Pipe Line Company, Docket No. G–11061.

These matters come before us again on numerous applications for rehearing[1] filed with respect to our order issued December 19, 1958, permitting abandonment of service by Panhandle Eastern Pipe Line Company to Michigan Consolidated Gas Company in the amount of 127,000 Mcf of gas per day or 46,355,000 Mcf per year. As discussed below, the considerations set forth in the applications for rehearing do not cause us to change the result at which we have arrived. However, we will grant a stay of our order pending our determination of the proper allocation of the gas Panhandle is now delivering to Michigan Consolidated after a hearing for which we make provision in this order. We may now turn to the objections made to our order.

ADEQUACY OF GAS SUPPLY TO THE AMERICAN NATURAL SYSTEM WITHOUT THE PANHANDLE GAS

American Louisiana Pipe Line Company (Am-La) contends that it does not

[1] Filed by American Louisiana Pipe Line Company; Michigan Wisconsin Pipe Line Company; Michigan Consolidated Gas Company; Iowa Southern Utilities Company; County of Wayne, Michigan; State of Wisconsin and Public Service Commission of Wisconsin, jointly; Wisconsin Fuel and Light Company, Merrill Gas Company, City Gas Company, People's Gas Company, and Wisconsin Rapids Gas and Electric Company, jointly; Michigan Public Service Commission; City of Detroit; City of Milwaukee; Iowa Electric Light and Power Company; Madison Gas and Electric Company; Natural Gas Distributors, Inc.; Keokuk Gas Service Company; North Central Public Service Co.; Wisconsin Natural Gas Co. and Wisconsin Michigan Power Company, jointly; Wisconsin Power and Light Company; St. Joseph Light and Power Company; Milwaukee Gas Light Company.

have sufficient capacity to deliver 127,000 Mcf per day to Michigan Consolidated as ordered by the Commission. The basis of this argument is that the designed capacity of Am-La's pipeline in the amount of 357,000 Mcf per day is not sufficient to meet permanent allocations from Am-La's capacity in the amount of 244,288 Mcf per day[2] in addition to the 127,000 Mcf per day of capacity withdrawn by Panhandle. As indicated in our prior order the record shows that on a daily basis Am-La's pipeline can deliver well in excess of the 357,000 Mcf per day designed capacity.

A witness for Panhandle introduced a well considered study showing a possible operation of Am-La's pipeline at different seasons of the year. During the midwinter months of December, January and February he showed that the pipeline was able to receive 398,000 Mcf per day in the Louisiana fields and deliver up to 385,000 Mcf per day without receiving any gas under its contract with Texas Gas Transmission Corporation. In contrast, he showed that during the summer months of June, July and August when Am-La would receive 102,000 Mcf per day available from Texas Gas, it could deliver up to 461,000 Mcf per day after cutting back its purchases in the Louisiana fields to 374,000 Mcf per day. Furthermore, it may be noted that the maximum daily contract quantity available from the Louisiana fields is 406,400 Mcf per day which make possible a delivery, after deduction of fuel and line losses, of 387,700 Mcf on days when no gas is available from Texas Gas. As we indicated in our prior order, it is doubtful whether under the producer contracts as they now read that such deliveries are available on a continuous basis, but they are available to meet peak day requirements on the American Natural System. Thus as we indicated in our prior order even though there were an annual deficiency, this could be overcome by the flexibility inherent in Am-La's pipeline and producer contracts enabling it to meet peak demands, substantially in excess of its designed capacity of 357,000 Mcf per day. The storage fields of Michigan Wisconsin and Michigan Consolidated, of course, also provide flexibility and increase the system's ability to meet peak demands.

Turning to the matter of annual deliveries we find that Am-La contends that we have overestimated the ability of its pipeline in the amount of 20,298,000 Mcf per year. It says that this alleged error results principally from including the 18,615,000 Mcf per year available from Texas Gas in addition to the designed annual sales capacity of 357,000 Mcf per day or 130,305,000 Mcf per year. There is little doubt in the record that the pipeline is capable of delivering the designed quantities in addition to the gas from Texas Gas. In accordance with the plan of operation contemplated by Am-La, during the winter months the pipeline would receive 370,000 Mcf per day in the Louisiana fields in order to deliver the 357,000 Mcf per day referred to above without any receipts from Texas Gas. During the other parts of the year there is no physical reason why these receipts from the Louisiana fields could not be continued while receiving the gas available from Texas Gas. Panhandle's evidence, referred to above, shows that even larger receipts could be obtained from the Louisiana fields while receiving varying amounts of gas from Texas Gas.

The only possible limitation on Am-La being able to deliver the 130,305,000 Mcf per year in addition to the gas from Texas Gas is contained in the contracts with the producers in the Louisiana fields. These contracts provide for sale and delivery of an average daily quantity of gas depending upon the size of the seller's reserves with various provisions for adjusting this quantity in case the estimate of the reserves is increased or decreased. As we have noted in our prior order the take of gas during any one day shall never be less than 75 percent nor more than 125 percent of the average daily quantity. It may be that the contracts, properly interpreted, mean that the average daily quantity may not be exceeded on an annual basis, but we do not believe that this is a practical limitation on Am-La. This is indicated by the contracts themselves. As the contracts are drafted there are many provisions inserted for the protection of the seller in case the buyer should take less than the average daily quantity, but no provision as to the consequences if the buyer should take more than the contract quantity. Furthermore, we note that Am-La's vice president as a witness stated that it could take 125 percent of the contract quantities until the wells ran dry. Taking the gas at the present contract rates the reserves would last twenty years, while if the gas were taken at the 125 percent rate the reserves would last as long as 16 years. In view of the present reserves with their long life index we are of the opinion that the possible limitation in the contract terms does not require us to deny Panhandle's application. We are convinced that the result is a reasonable pragmatic adjustment in view of the strong public interest in permitting Panhandle to make use of its own gas.

On this basis we are not presently relying on increased gas supplies from the Laverne field or the installation of the "Step 2" facilities as contended by some of the parties. We mentioned these factors only to suggest that as Am-La's requirements increase, as they undoubtedly will, there is also a vista of increased gas supplies and expansion of pipeline capacity. As Am-La states in its brief the ultimate design of the pipeline will involve the addition of a number of compressor stations and a sales capacity of 550,000 Mcf per day.

We are not forcing Am-La or Michigan Wisconsin to install additional transportation facilities or to operate beyond their capacities. As Am-La points out we do not have power to do that; we leave these matters to the discretion of management. We are merely determining whether it is necessary in the public interest to require Panhandle to continue a service or whether the American Natural System can render reasonable service itself without this additional gas.

There is a further consideration showing that the American Natural System cannot make just complaint that it is required to meet its own needs. As our order of December 19, 1958 noted, our Opinion No. 291 limited the various parties dependent upon Michigan Wisconsin and American Louisiana to expected firm loads as of January 1, 1958, for which gas was then made available. The December 19, 1958, order showed that this 1958 requirement for which gas had been provided was 244,700,548 Mcf. The record shows that the increased requirements set forth therein can be met by the American Natural System and that a fortiori it can meet the lesser requirements as limited by Opinion No. 291.

Standards for Abandonment and Their Application

Some of the applicants for rehearing state that we have used a narrow and incorrect standard in permitting abandonment and then have misapplied it in the present proceedings. In our prior order we referred to a standard of comparative needs as between the consuming public served by Panhandle's utility customers and the needs of the consuming public served by Michigan Consolidated and Michigan Wisconsin; we compared the space heating saturation on the system of Michigan Consolidated with that on the systems of those customers of Panhandle whose only source of gas is Panhandle, and we found that Michigan Consolidated's space heating saturation was greater than that on the systems of those customers of Panhandle. Michigan Consolidated believes that such an approach would lead to a multitude of abandonment proceedings, whose outcome would be dependent on variations in space heating saturations. Of course, we did not approach the problem so narrowly. We were concerned and are concerned whether "the present or future public convenience and necessity permit such abandonment", the standard of section 7(b) of the Gas Act. The standards mentioned here and in our previous order were but partial criteria used in reaching a result within the language of the statute. The statute, it may be observed, because of its permissive language implies that while a given service might be in accordance with the public convenience and necessity, abandonment might also be permitted by the public convenience and necessity; in other words, abandonment will be permitted unless inconsistent with the public convenience and necessity.

Following the statute it would appear that the economic effect of the abandonment on the Detroit area would be relevant as argued by Michigan Consolidated, Wayne County and other applicants for rehearing, and we have taken this into consideration as opposed to the undoubted need of Panhandle's own customers for gas. We do not believe, how-

[2] Michigan Consolidated 146,000 Mcf per day; Michigan Wisconsin 90,515 Mcf per day; Paris-Henry County 3,945 Mcf per day; Lincoln Natural Gas Co. 1,328 Mcf per day; Ohio Valley Gas Corp. 2,500 Mcf per day (17 F.P.C. 659; 16 F.P.C. 908–909).

ever, as argued by Wayne County and the City of Detroit that Panhandle's service to Michigan Consolidated and the Detroit area gives the consumers in that area any priority in the Panhandle gas, merely because their patronage has contributed to the development of Panhandle's system. Presumably they paid no more than a reasonable rate so that they have no more right to the gas than does any other utility customer to continued service.

Also relevant, but not controlling, is the need for additional gas on the systems of Michigan Wisconsin's distributors, some of whom have comparatively low space heating saturations. While we have carefully considered the problems of these companies, the space heating saturation of Michigan Consolidated, which is being directly deprived of the Panhandle gas and the advantages of separating the two systems have greater weight. It follows also that our order properly provides that deliveries be made to Michigan Consolidated to make up for the loss of the Panhandle gas. Our order leaves largely unimpaired the present firm gas supplies to Michigan Wisconsin's distributors although they will obtain no additional firm gas supplies for expansion from the reserved gas or that made available in this Docket No. G–10396.

As against whatever detriments there may be to Michigan Consolidated and its customers and to Michigan Wisconsin and its customers and their consumers, the record shows great demands for service on Panhandle's system. As Panhandle points out in its brief the peak day requirements for the 1957 heating season were more than 497,000 Mcf in excess of the amount of gas its utility customers could demand under their contracts. Similarly, this deficiency would increase to more than 639,000 Mcf in 1958 and more than 733,000 Mcf in 1959.

A comparison can be made, as follows. The capacity of Panhandle's system, including its affiliate, Trunkline Gas Company, is approximately 1,269,148 Mcf per day.[3] The record in the present proceeding shows that Panhandle's utility customers, other than Michigan Consolidated, could have used 1,519,139 Mcf per day on peak days in the year 1957.[4] Thus dividing, we find that Panhandle can meet the demands of its customers to the extent of only 83.5 percent.

On the other hand the peak day supply to the American Natural System in the 1958–1959 season including the 59,885 Mcf of gas reserved in Docket No. G–2306, but not including the Panhandle Gas was 1,784,000[5] Mcf on the basis of the record. Similarly the peak day requirements as found by the presiding examiner were 1,855,459,[6] so that these requirements could be met to the extent of 96 percent.

In applying the standard of the Act all of the considerations referred to in this order and in our prior order were weighed. Certainly the needs of Panhandle's customers for the gas coupled with the general considerations expressed in our previous order and again referred to below with respect to the relations between the two systems and their place in the natural gas industry show that the public convenience and necessity "permit" such abandonment.

DISPOSITION OF THE RESERVED GAS

In our prior order we directed that Am-La deliver 127,000 Mcf per day of gas to Michigan Consolidated, utilizing the 59,885 Mcf of gas reserved in Docket No. G–2306 for new markets and the additional capacity made available in the present docket, until our further order. We thus sought to insure that the gas provided by Panhandle would be replaced by supplies undoubtedly available on the system of American Natural. The Wisconsin Commission and other applicants for rehearing, particularly distributing companies in Wisconsin, contend, however, that the Commission's action deprives them without a hearing of their alleged rights in the reserved gas and thus deprives them of their property without due process of law.

Before considering the rights of the various claimants for such gas, we should note that, contrary to contentions, the reserved gas is involved in these proceedings. Here we are concerned as to whether the American Natural System will have sufficient gas supplies without Panhandle's gas. All of the American Natural System's gas supplies are thus relevant facts in arriving at a determination on Panhandle's application, and we may take notice of our own orders in other docket numbers when considering the reserved gas as available for permanent allocation. U.S. v. Pierce Auto Lines, 327 U.S. 515, 592.

With respect to distirbuting companies in Wisconsin or elsewhere that were parties to Docket No. G–2306, but not to the present proceeding in Docket No. G–10396, we cannot be directly concerned in this proceeding except insofar as their interests are represented by the Wisconsin Commission, but, in any case, the course of the former proceeding leaves it clear that the reserved gas was open to appropriate allocation by the Commission. In its Opinion No. 291, issued May 7, 1956 (15 F.P.C. 23) as amended by subsequent orders (16 F.P.C. 897; 17 F.P.C. 300, 657) the Commission made a permanent allocation of a portion of the capacity, totalling 300,000 Mcf per day, of Am-La's new pipeline but reserved for allocation to new markets 59,885 Mcf per day. In order to make use of this reserved gas Michigan Wisconsin filed an application in Docket No. G–9850 on January 6, 1956, amended April 15, 1957, to build a lateral line extending Westward in Wisconsin from a point on its north-south line near Lake Winnebago. By means of this lateral it proposed to sell natural gas to ten distribution companies furnishing new gas service to twenty-nine communities in Wisconsin and one in Michigan. This application was the subject of extensive hearings in the Consolidated Midwestern omnibus proceeding. At these hearings distributing companies in Wisconsin and elsewhere had opportunity, of course, to intervene and present their cases in favor of Michigan Wisconsin's project or other allocation of gas service that would benefit them and the consumers served by them. Of the ten distributing companies which Michigan-Wisconsin planned to serve,[7] all were interveners in the consolidated proceeding. On October 31, 1958, we issued our Opinion No. 316 and Order relating to the proposals of Midwestern and Michigan Wisconsin among others.[8]

In that opinion we determined that Michigan Wisconsin had not proved the economic feasibility of its project and postponed for later decision the disposition of the 59,885 Mcf of reserved gas. Michigan Wisconsin, along with Midwestern and the other applicants, was made subject to a provision which required that it notify the Commission of its intention to reapply within ten days. Michigan Wisconsin did file such a notice and did reapply (in Docket No. G–17180) to serve certain communities in Wisconsin utilizing the reserved gas.

Thus in Docket No. G–2306 we had held a hearing on a proposal for one possible disposition of the reserved gas with all interested parties given a chance to participate. Since nothing feasible resulted which would dispose of the reserved gas, there was no obligation to enter into further hearings when it later turned out that Michigan Consolidated could make appropriate use of the reserved gas upon cessation of Panhandle's deliveries. In our Opinion No. 316 we indicated that the reserved gas was subject to disposition other than to new markets. While the presiding examiner in that proceeding stated that the parties proposing to serve the new markets would have a "prior call" on the reserved capacity, we said that our reservation did not mean, "should demands on the part of the existing markets be-

[3] See our order Town Gas Company of Illinois, 19 F.P.C. 143, 144.

[4] Exhibit 108 shows the firm gas requirements of Panhandle's customers purchasing gas for resale to be 1,614,139 Mcf per day. This includes 285,000 Mcf for East Ohio Gas Company and Ohio Fuel Gas Company. Since the space heating saturations of these companies are high, it may be presumed for the sake of the present computation that they will not be allocated any of the gas now being delivered to Michigan Consolidated. Therefore their requirements will be reduced by 95,000 Mcf to 190,000 Mcf, actual for the year 1956. The total requirements are reduced by the same 95,000 Mcf to 1,519,139 Mcf.

[5] This figure is composed of 324,000 Mcf from Michigan Wisconsin-field, 598,000 Mcf from Michigan Wisconsin-storage, 477,000 Mcf from Michigan Consolidated-storage and 385,000 Mcf from Am-La. There does not appear to be a dispute about the first two figures. The 477,000 Mcf, which is lower than higher amounts claimed by Panhandle, was not excepted to by Am-La. The 385,000 Mcf has been referred to in this present order.

[6] This amount was not excepted to by Am-La, although Panhandle would use a slightly smaller amount.

[7] City Gas Company; Merrill Gas Company; Peoples Gas Company; Northern States Power Co.; Wisconsin Hydro Electric Co.; Central Wisconsin Gas Co.; Wisconsin Fuel and Light Co.; Wisconsin Public Service Corporation; Natural Gas Distributors, Inc. and Wisconsin Rapids Gas and Electric Company.

[8] American Louisiana Pipe Line Co., 20 F.P.C. — Docket No. G–2306, et al., October 31, 1958.

come of greater importance in the public interest the new markets proposed herein must forever be favored because of the provisions of our Opinion No. 291 and accompanying order." The reservation had been made in May of 1956; by October of 1958 another disposition of the gas had become appropriate. There can be no priority in the reserved gas. "Only Congress could confer such a priority". F.C.C. v. Pottsville Broadcasting Co., 309 U.S. 134, 145.

The applicants for rehearing herein who claim rights in the reserved gas are, of course, subject to the effect of the proceedings in Docket No. G–2306,[9] but further than this, they have had the opportunity of participating in the hearings in the present docket. While the issue may not have been specifically framed as to the reserved gas versus the Panhandle Gas, it seems obvious that all parties seeking additional gas supplies from the American Natural System realized that the cessation of the Panhandle deliveries would mean that much less gas available to the American Natural System. Therefore it was the object of the companies in the American Natural System and their distributors to resist the Panhandle abandonment. Extensive evidence was accordingly presented as to the gas available on the American Natural System and the needs of the distributing companies, including their space heating saturations. We thus can see no need for further hearing on the question whether the reserved gas should be delivered to Michigan Consolidated to replace the gas withdrawn by Panhandle. "[D]ue process deals with matters of substance and is not to be trivialized by formal objections that have no substantial bearing on the ultimate rights of the parties." Market Street R. Co. v. Comm'n., 324 U.S. 548, 562.

Two of the applicants for rehearing, Iowa Southern Utilities Company and Iowa Electric Light and Power Company, interveners in the present docket, were also interveners in Docket Nos. G–2306 and G–2327. In the latter dockets Iowa Southern was seeking an allocation of gas to serve the communities of Leon and Corydon, Iowa, while Iowa Electric proposed to serve Chariton, Iowa. A hearing was held in those dockets with respect to these projects, among others, and we considered them in our order issued September 4, 1956 (16 F.P.C. 897). There we determined that the costs of bringing gas to these towns by lateral lines constructed from Michigan Wisconsin pipeline were "such as to render the projects economically infeasible from the standpoint of these applicants" (16 F.P.C. at p. 902), and we deferred final decision. Both companies now complain that in our order of August 20, 1957 (18 F.P.C. 193), we had stated that their rights would be protected as their requests for service from Michigan Wisconsin would be considered in relation to the final decision of the issues presented in the two dockets, but that in our order of December 19, 1958, they were deprived of their rights in the reserved gas.

In our opinion these companies and their customers have not been deprived of substantial rights. Their projects have been considered once and found wanting. Like other interveners in Docket No. G–10396 both companies were given opportunity to resist the abandonment proposal. They have shown in no way that it would have made any difference in the presentation of evidence if they had known that as a result of abandonment, the reserved gas would be allocated to Michigan Consolidated. We do not see that these two Iowa Utilities stand in any different position than other interveners in the present docket deprived of the use of the reserved gas.

Other Procedural Matters

A number of the applicants for rehearing contend that our order of December 19, 1958, is defective on various procedural grounds. They contend that we ignored the decision of the presiding examiner. We did not overlook the decision of the presiding examiner in reaching our conclusions on this matter, but we did not refer to it in the course of our order because not only our conclusions but our reasoning differed from his. In our final ordering clause (D) we took specific cognizance of his decision in denying exceptions not specifically granted.

They contend that we adopted several theories which were never advanced by Panhandle, the moving party and as to which they had no notice or opportunity to be heard. We are clearly not required to act only on theories advanced by the parties before us; in fact regulation in the public interest would clearly dictate otherwise. In any case there has been no showing that the evidence presented would be any different based on the precise reasoning of our order.

Some of the applicants for rehearing contend that the Commission erred in providing for the submission of a revised plan of redistribution of Panhandle's gas because they are thus not given an opportunity to attack any redistribution plan. We see no validity in this objection. In our December 19, 1958, order we provided that the plan should allocate the gas so that it would be available for sale for resale primarily to domestic and commercial consumers. We thereby indicated that if the plan met this criterion among others, it would be in the public interest. The American Natural Companies and their distributors have no proper further interest in the gas. Compare our opinion in Houston, Texas Gas and Oil Corp., 16 F.P.C. 118, 17 F.P.C. 303, 542 affirmed 251 F. 2d 643, 648–649 (CADC), certiorari denied 356 U.S. 959, where it was held that there need not be further hearings as to whether the pipeline had complied with the rather elaborate conditions we had inserted in our order granting certificates of public convenience and necessity. Otherwise there would be no end to proceedings in these matters. It is solely with respect to the abandonment of service with which Michigan Consolidated and other parties are primarily concerned and not the ultimate disposition of the natural gas by Panhandle which is subject to our future approval. All parties were fully heard on the abandonment issue, and we are of the opinion that the present and future public convenience and necessity as shown by the record clearly indicates that our permission and approval to abandon was fully warranted.

Michigan Consolidated contends that the proceedings should be reopened (1) to receive evidence which was excluded from the record, (2) to receive evidence of significant developments which have occurred since the record was closed, and (3) to afford a hearing as to the facilities Panhandle is being authorized to abandon. The evidence in question was excluded by the presiding examiner and on October 3, 1957, Michigan Consolidated filed an appeal with the Commission which was denied by our order issued October 31, 1957, 18 F.P.C. 571. Michigan Consolidated's application for rehearing was rejected on the ground that the order was not final. Upon reconsideration of the evidence we see no reason to change the conclusions expressed in our order issued October 31, 1957.

The evidence in question falls into several categories. One category relates to a possible development of the Howell Field in Michigan as an alternative to the abandonment. However, the proffered evidence indicates that development of the Howell Field would require the expenditure of between $14,000,000 and $20,000,000 and would make available but a fraction of the amount of gas available from the Panhandle abandonment, so that it does not appear to be a feasible alternative. We are also doubtful as to whether such evidence could in any case be relevant in view of our lack of power to require a natural gas company to enlarge its transportation facilities. Michigan Consolidated Gas Company v. F.P.C., 246 F. 2d 904, 909–910 (C.A. 3) certiorari denied 355 U.S. 894.

Evidence relating to Panhandle's reserves is not relevant because the amount of gas available to the Panhandle System is limited by the capacity of Panhandle's pipeline, not by its reserves.

With respect to the proffered evidence relating to the controversy between the American Natural System and the Panhandle System we have already noted in our order of October 31, 1957, that mere controversy is not a basis for abandonment. However, the existence of the controversy and its general nature, as referred to in our order of December 19, 1958, is already sufficiently detailed in the record or in past proceedings. Evidence of Panhandle's desire, if any, to serve industrial customers is not relevant because under the terms of our order the 127,000 Mcf per day of gas must be sold for resale primarily to domestic and commercial consumers.

Evidence relating to the financial benefits that Panhandle gained in the past by serving Michigan Consolidated has no relevance, for the buyer gains no priority because of the benefits his patronage confers upon the utility seller.

In our October 31, 1957, order, and in this order we have already indicated that

[9] All of the applicants for rehearing in Docket No. G–10396, which are listed in footnote (1) above, are parties to Docket No. G–2306, et al.

the details of Panhandle's disposition of its gas are not relevant to a determination of the abandonment question. Whether or not Panhandle has adequate lateral capacity can be considered, if necessary, in connection with a plan of distribution of gas.

Evidence with respect to Michigan Consolidated's cost of manufactured gas is irrelevant, as the delivery of Panhandle's gas is being fully replaced under the terms of our December 19, 1958, order and because we are of the opinion that the American Natural Gas System has available natural gas to take care of the requirements of the affiliates comprising the system.

Turning to the significant developments that Michigan Consolidated says also require reopening the record, we find that they consist of (1) the application by Trunkline, Panhandle's subsidiary, in Docket No. G–15394 to expand and sell gas to Consumers Power Company; (2) the application by Midwestern Gas Transmission Company in Docket No. G–16841 to build a new pipeline to the Chicago area; and (3) completion of the pipeline of Trans-Canada Pipe Lines, Ltd. allegedly releasing 15,500,000 Mcf of gas per year that Panhandle is now exporting to Union Gas Company. Apart from the fact that any request to reopen the record to adduce additional evidence is not timely under § 1.33 of our rules, we have been fully aware of the nature of the above developments. The trunkline application is not yet before us; the hearing on the Midwestern application has not yet been completed and Midwestern does not propose service to Panhandle or to any customer of Panhandle for use in an area now served with gas purchased from Panhandle; whether Panhandle should cease selling gas to Union Gas Company still remains to be seen in spite of the completion of the Trans-Canada pipeline and irrespective of the terms of its contract with Union. There is thus nothing to be added by reopening for evidence on these matters.

Lastly Michigan Consolidated contends that the record should be reopened to afford a hearing on the facilities Panhandle will abandon. The record indicates that the facilities involved will probably include little more than a metering station and their removal will have no appreciable financial effect upon Panhandle. Furthermore, Michigan Consolidated will not be effected by the facilities abandoned.

We shall therefore deny Michigan Consolidated's request for reopening the record. We shall also deny Panhandle's request for leave to file an answer to the application to reopen, for the application to reopen is indistinguishable procedurally from and is a part of the application for rehearing, and neither our Rules nor the Natural Gas Act provide for an answer to an application for rehearing.

Many of the applicants for rehearing requests a stay of our order until the rights of the parties have been finally determined upon judicial review. We will defer setting an effective date for the abandonment until issuance of our order determining the appropriate allocation of Panhandle's gas.

Conclusion on Rehearing

We conclude that the applicants for rehearing have presented no considerations which alter our conclusion that the public interest not only "permits", within the language of the statute, but favors the proposed abandonment. It may be true, as contended, that we have never before permitted an abandonment of service over the protests of the buyer, but here we have a peculiar situation where one of two great rival natural gas systems is required to serve the other. This situation has been subject to our regulatory authority for some time as indicated in our prior order. Up to the present time because of shortage of gas supplies we have been unwilling to permit the abandonment. Now because of Am-La's increased capacity and the availability of the gas reserved in Docket No. G–2306, et al. abandonment has become feasible, and it is our opinion that each system will more efficiently procure gas supplies and serve its own customers if separated from the other one. Viewing the problem in this way it is not essential that the American Natural System's gas resources precisely equal its requirements as long as they substantially do so, although we have found that these resources are indeed sufficient to meet present requirements.

Panhandle's Plan of Distribution

In our order of December 19, 1958, we provided that Panhandle should submit for our approval a plan of allocating the gas presently being delivered to Michigan Consolidated so that such gas will be available for sale for resale primarily to domestic and commercial consumers. Panhandle did file a plan on January 19, 1959. However, the plan so filed is similar to that presented at the hearing, and, as we indicated in our prior order, that plan was not satisfactory. The present plan clearly makes no real attempt to meet the standards of our order since it provides increased volumes of gas only for existing eastern zone customers having a higher percentage of space heating saturation than that obtaining on the Michigan Consolidated System and does now show the portion of the gas that will be made available to domestic and commercial consumers to meet the requirements of the Commission's order that the gas go primarily to these classes of consumers. We shall therefore reject Panhandle's plan but will set a hearing to enable all properly interested parties to present plans and evidence with respect to the disposition of Panhandle's gas in conformity to the standards of our order of December 19, 1958. In our opinion such parties would include Panhandle's customers and interested State commissions, but not members of the American Natural System or their customers.

Michigan Consolidated's Proposed Settlement

On January 26, 1959, Michigan Consolidated filed a proposal in settlement of the controversy. Under this proposal we would modify our order to provide that Panhandle be authorized to abandon as of October 1, 1959, its present deliveries of 127,000 Mcf per day which are available on the peak days upon condition that on the same date Panhandle commence the delivery to Michigan Consolidated of the same annual volume of 46,355,000 Mcf. This plan, Michigan Consolidated contends, would enable Panhandle to serve 75,000 additional space heating consumers and at the same time permit Michigan Consolidated through the use of storage facilities to meet its own requirements. Numerous responses were filed for and against this plan. Among those opposing the plan are many of Panhandle's customers and Panhandle itself. Since the plan of settlement, whatever its virtues, is not acceptable to the parties to these proceedings, and is otherwise inconsistent with our order, it need not be discussed further.

The Commission finds: The assignments of error and grounds for rehearing in the above applications for rehearing set forth no new facts or principles of law which were not fully considered by the Commission when it adopted its order of December 19, 1958, or which having now been considered warrant any change or modification of said order, except as provided below. Such specifications of error, contentions and arguments contained in the above applications for rehearing as are not specifically disposed of in the foregoing are without substantial support in evidence or reasonable basis in law or are immaterial to the correct decision of this case and should be denied.

The Commission orders:

(A) The applications for rehearing filed in these proceedings are hereby denied except with respect to the stay granted in (B) below.

(B) The effective date of the abandonment of service permitted Panhandle in paragraph (A) of our order issued December 19, 1958, shall be stayed until a date set in a further order of the Commission.

(C) Michigan Consolidated's request for reopening the record is hereby denied.

(D) Panhandle's motion for leave to file an answer to Michigan Consolidated's request to reopen the record is hereby denied.

(E) Panhandle's plan of allocation of the gas now being delivered to Michigan Consolidated is hereby rejected, and a hearing is hereby fixed to commence at 10:00 a.m., e.d.s.t., on June 16, 1959, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., to determine an appropriate plan for the allocation of such gas.

By the Commission.[10]

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59–1508; Filed, Feb. 19, 1959; 8:45 a.m.]

[10] Concurring statement of Commissioner Kline and dissenting statement of Commissioner Connole filed as part of original document.

[Docket No. G-17736]

CHRISTENSEN & MATTHEWS ET AL.

Order for Hearing and Suspending Proposed Change in Rate

FEBRUARY 13, 1959.

Christensen & Matthews et al. (Christensen & Matthews) on January 16, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Tennessee Gas Transmission Company.
Rate schedule designation: Supplement No. 2 to Christensen & Matthews' FPC Gas Rate Schedule No. 1.
Effective date: March 1, 1959 (effective date is the date proposed by Christensen & Matthews).

In support of the proposed redetermined rate increase, Christensen & Matthews state that the contract was negotiated at arm's length and the increased price is in all respects fair, reasonable and just.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 2 to Christensen & Matthews' FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Christensen & Matthews' FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it hereby is suspended and the use thereof deferred until August 1, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1509; Filed, Feb. 19, 1959; 8:45 a.m.]

[Docket No. G-17814]

NORTH PENN GAS CO.

Order Providing for Hearing and Suspending Proposed Revised Tariff Sheets

FEBRUARY 13, 1959.

North Penn Gas Company (North Penn) on January 15, 1959, tendered for filing Fifth Revised Sheets Nos. 4 and 5 to its FPC Gas Tariff, First Revised Volume No. 1, proposing an annual increase in its rates and charges for natural gas sales of $389,400, or 8.5 percent, based on sales for the year ended October 31, 1958. The proposed increase is in addition to the $392,800 increase in rates now in effect subject to refund in Docket No. G-12499.

North Penn states that the increased rate is necessitated by the recent rate increase applications filed by Tennessee Gas Transmission Company (Tennessee Gas) and New York State Natural Gas Corporation (New York State Natural) which were suspended until May 15, 1959, and June 1, 1959, by Commission's orders issued in Docket Nos. G-17166 and G-17296, respectively.

In support of its proposed rate increase, North Penn submitted actual costs for the year ended October 31, 1958, with adjustments. The company's adjustments reflect increased purchased gas costs and nominal increases in wages, salaries, and some taxes. Additionally, the company computes its rate base by use of a smaller depreciation reserve than shown by its books and claims a 6½ percent rate of return and associated income taxes. The major part of the increase is the result of increased purchased gas costs.

Since, the claimed increase in cost of purchased gas is based primarily on the effectiveness of the suspended rates of its suppliers, Tennessee Gas and New York State Natural, which were not shown to be justified, North Penn's claimed increase in cost of gas is not now supported. Further, the proposed increase is not supported to the extent of its dependence on increased rate of return and associated taxes computed on the questioned rate base.

North Penn requests that its increase become effective February 15, 1959, or, if suspended, that the suspension period not extend beyond May 15, 1959, the terminal date of the suspension of the Tennessee Gas increase. Suspension only until May 15, 1959, would permit collection of the increased rates prior to the date (June 1, 1959) upon which increases in cost of gas purchased from New York State Natural may become effective in the manner provided by the Natural Gas Act. Suspension thereafter may require North Penn to pay its suppliers' rate increases without opportunity to collect compensating additional revenues particularly if suspension substantially beyond June 1, 1959, is ordered. Suspension until May 19, 1959, however, will permit the noncollection of revenues to affect Tennessee's rate increase (for about 4 days) to be offset approximately by the collection in advance of payment of the rate increase by New York Natural which is anticipated to become effective June 1, 1959.

The increased rates and charges provided for in the revised tariff sheets tendered by North Penn on January 15, 1959, have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a public hearing concerning the lawfulness of the rates, charges, classifications, and services contained in North Penn's FPC Gas Tariff, First Revised Volume No. 1, as proposed to be amended by Fifth Revised Sheets Nos. 4 and 5, and that said proposed revised tariff sheets and the rates contained therein be suspended and the use thereof deferred as hereinafter provided.

(2) To equate effectiveness of the deferred rates as nearly as practicable to increases in North Penn's cost of purchased gas it is appropriate to suspend such rates until May 19, 1959.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held on a date to be fixed by notice from the Secretary concerning the lawfulness of the rates, charges, classifications, and services contained in North Penn's FPC Gas Tariff, First Revised Volume No. 1, as proposed to be amended by Fifth Revised Sheets Nos. 4 and 5.

(B) Pending such hearing and decision thereon, North Penn's proposed Fifth Revised Sheets Nos. 4 and 5 to its FPC Gas Tariff, First Revised Volume No. 1, be and they are each hereby suspended and the use thereof deferred until May 19, 1959, and until such further time as they may be made effective in the manner prescribed by the Natural Gas Act.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1510; Filed, Feb. 19, 1959; 8:46 a.m.]

[Docket No. G-17819]

WILBUR J. HOLLEMAN

Order for Hearing, Suspending Proposed Change in Rate, and Allowing Changed Rate To Become Effective

FEBRUARY 13, 1959.

Wilbur J. Holleman (Holleman), on January 16, 1959, tendered for filing a proposed change in his presently effective rate schedule [1] for the sale of natural gas, subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated January 14, 1959.
Purchaser: Mississippi River Fuel Corporation.
Rate schedule designation: Supplement No. 4 to Holleman's FPC Gas Rate Schedule No. 1.
Effective date: February 16, 1959 (effective date is the first day after expiration of statutory notice).

Without giving any explanation, Holleman has given a questionable interpretation to the above-designated rate schedule concerning his reimbursement for the increase in the Louisiana severance tax.

The changed rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 4 to Holleman's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that Holleman be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate and charge contained in Supplement No. 4 to Holleman's FPC Gas Rate Schedule No. 1.

(B) Pending the hearing and decision thereon, the supplement hereby is suspended and the use thereof deferred until February 17, 1959, and thereafter until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge, and classification set forth in the aforesaid supplement shall be effective on February 17, 1959: *Provided, however,* That within 20 days from the date of this order, Holleman shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Holleman shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rate found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Holleman until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the changed rate and charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy) in writing and under oath, to the Commission monthly (or quarterly if Holleman so elects) for each billing period and for each purchaser the billing determinants of natural gas sales to such purchaser and the revenues resulting therefrom, as computed both under the rate in effect immediately prior to the date upon which the changed rate allowed by this order becomes effective and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As provided in paragraph (C), within 20 days from the date of issuance of this order, Holleman shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

Agreement and Undertaking of Wilbur J. Holleman To Comply With the Terms and Conditions of Paragraph (D) of the Federal Power Commission's Order Making Effective Proposed Rate Change

In conformity with the requirements of the order issued (date), in Docket No. G-17819, Wilbur J. Holleman hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order and has caused this agreement and undertaking to be executed, this ------ day of ----------.

Wilbur J. Holleman

Witness:

As a further condition of this order, Holleman shall file with the agreement and undertaking a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Holleman is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Holleman shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until the proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1511; Filed, Feb. 19, 1959; 8:46 a.m.]

[1] Present rate in effect subject to refund in Docket No. G-15952.

[Docket No. G-17821]

H. L. HAWKINS ET AL.

Order for Hearing, Suspending Proposed Change in Rate, and Allowing Changed Rate To Become Effective

FEBRUARY 13, 1959.

H. L. Hawkins et al. (Hawkins) on January 16, 1959, tendered for filing a proposed change in their presently effective rate schedule [1] for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change is contained in the following designated filing:

Description: Notice of Change, dated January 14, 1959.
Purchaser: Texas Gas Transmission Corporation.
Rate schedule designation: Supplement No. 6 to Hawkins' FPC Gas Rate Schedule No. 1.
Effective date: February 16, 1959, (effective date is the first day after expiration of statutory notice).

In support of the proposed increased rate and charge, Hawkins has interpreted the above-designated rate schedule to provide for full reimbursement of the first 1 cent per Mcf of the Louisiana severance tax. This interpretation appears to be questionable and should be determined after hearing.

The changed rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the proposed rate be made effective as hereinafter provided and that Hawkins be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regula-

[1] Rate is currently in effect subject to refund in Docket Nos. G-12306 and G-15628.

tions under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate and charge contained in Supplement No. 6 to Hawkins' FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and hereby is suspended and the use thereof deferred until February 17, 1959, and thereafter until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge and classification set forth in the above-designated supplement shall be effective on February 17, 1959: *Provided, however,* That within 20 days from the date of this order, Hawkins shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Hawkins shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rate found by the Commission in this proceeding not justified, together with interest thereon at the rate of 6 percent per annum from the date of payment to Hawkins until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the changed rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy), in writing and under oath, to the Commission monthly, or quarterly if Hawkins so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rate in effect immediately prior to the date upon which the changed rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance thereof, Hawkins shall execute and file in triplicate with the Secretary of this Commission their written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

Agreement and Undertaking of _____ To Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Change

In conformity with the requirements of the order issued _____, in Docket No. G-17821 _____ hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and for that purpose has caused this agreement and undertaking to be executed.

Date _____

Witness:

_____

As a further condition of this order, Hawkins shall file with said agreement and undertaking a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Hawkins is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Hawkins shall, in conformity with the terms and conditions of paragraph (D) of this order make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1512; Filed, Feb. 19, 1959; 8:46 a.m.]

[Docket No. G-17822]

FRANCIS A. CALLERY ET AL.

Order for Hearing and Suspending Proposed Changes in Rates

FEBRUARY 13, 1959.

Francis A. Callery (Operator) et al. (Callery) on January 14, 1959, tendered for filing proposed changes in one of his presently effective rate schedules for the sale of natural gas subject to the jurisdiction of the Commission. The proposed changes which constitute increased rates and charges are contained in the following designated filings:

Description: Supplemental Agreement, December 2, 1958, Notice of Changes, January 14, 1959.

Purchaser: United Gas Pipe Line Company.

Rate schedule designations: Supplement No. 8 and Supplement No. 9, to Callery's FPC Gas Rate Schedule No. 16.

Effective date: February 16, 1959 (effective date is that proposed by Callery).

The proposed renegotiated increased rates and charges apply to the sale of natural gas from Arlette Cocke Well No. 1 in East Gibson Field, Terrebonne Parish, Louisiana, a property owned by Sun Oil Company (Sun), until transferred to Pioneer Oil and Gas Company by assignment dated March 28, 1958, and from whom Callery acquired three-fourths interest by assignment dated June 13, 1958.

On December 31, 1958, Callery submitted as a tender of a gas rate schedule for sales of gas from the designated property, the documents evincing the aforesaid transfers of interest, together with Sun's contract dated November 1, 1945, which is on file as Sun's FPC Gas Rate Schedule No. 63. By letter dated January 14, 1959, pursuant to § 157.28 of the Commission's regulations, this tender was accepted for filing; was designated as Callery's FPC Gas Rate Schedule No. 16 and was permitted to become effective as of the date of acquisition of the property, June 13, 1958.

Callery's initial deliveries of gas commenced on July 14, 1958, approximately five months prior to his tender of the aforementioned gas rate schedule. In regard to tax filings, Callery did not make timely filings relative to the 0.5 cent per Mfc tax reimbursement increase of August 1, 1958, which reimbursement under the Sun contract for the past period is no longer available to him under extant circumstances.

By letter dated January 30, 1959, Callery requested that the effective date of his FPC Gas Rate Schedule No. 16 be changed from the date of acquisition of the property to the date of January 14, 1959, and that his interest in the property for the period from June 13, 1958, to January 14, 1959, be covered by Sun's FPC Gas Rate Schedule No. 63 with Sun's filing for the aforementioned tax change. The request was denied by letter issued on February 12, 1959.

Sun has filed no statement to cover any interest of Callery as a coowner, nor is Sun the operator of the subject property. Callery's request in substance is that his gas rate schedule be changed with retroactive effect, and that such change also involve Sun's FPC Gas Rate Schedule No. 63 retroactively. This appears inappropriate to the provisions of the Natural Gas Act and adverse to their orderly administration in the public interest under the Commission's regulations.

In support of his proposed increased rates and charges, Callery submitted a supplemental contract dated December 2, 1958, providing for a base rate of 18.2 cents per Mcf from that date, plus 2.05 cents per Mcf reimbursement for the Louisiana severance tax. Callery states that the contract was negotiated at arm's length; that its price provisions compare with those of contracts for the sale of similar gas in the area and claims that higher drilling costs within the past year contribute to higher production costs. In the event of suspension of the proposed rates and charges, Callery requests a short suspension period i.e., until March 10, 1959.

The proposed increased rates and charges have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplements Nos. 8 and 9 to Callery's FPC Gas Rate Schedule No. 16 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from

the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplements Nos. 8 and 9 to Callery's FPC Gas Rate Schedule No. 16.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until July 16, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1513; Filed, Feb. 19, 1959; 8:46 a.m.]

[Docket No. G-16904]

COLORADO INTERSTATE GAS CO.

Notice of Application

FEBRUARY 13, 1959.

Take notice that Colorado Interstate Gas Company (Colorado), a Delaware corporation, address Colorado Springs National Bank Building, Colorado Springs, Colorado, filed on November 7, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing the operation and construction of facilities for the transportation and sale of natural gas; and pursuant to section 7(b) of the Act for permission and approval to abandon a portion of its facilities, all as hereinafter described.

Colorado proposes by this application to sell to El Paso Natural Gas Company at a point near Green River, Wyoming, a maximum of 239,010 Mcf of natural gas per day; to transport for the El Paso company from Green River a maximum of 478,020 Mcf of natural gas per day to a point near Provo, Utah; to increase the daily delivery capacity of its existing pipeline system in the Rocky Mountain area by 49,000 Mcf; and to retire the major portion of its existing Bivins-Denver transmission line together with the appurtenant facilities thereto, continuing service to all present customers through new facilities to be constructed. To carry out this proposal Colorado will reverse the flow in its existing transmission line between Denver, Colorado, and Green River, Wyoming, and construct 633 miles of transmission lines, retire 275 miles of existing lines, add 78,580 horsepower of compressor facilities and retire 27,115 horsepower of existing compressor facilities.

The estimated cost of the proposed facilities is $91,179,196. The proposed financing is to be accomplished by short-term bank loans to be repaid by the issuance of bonds and preferred stock.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 20th day of March 1959. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1514; Filed, Feb. 19, 1959; 8:46 a.m.]

[Docket No. G-17741]

ATLANTIC REFINING CO.

Order for Hearing and Suspending Proposed Changes in Rates

FEBRUARY 13, 1959.

The Atlantic Refining Company (Atlantic) on January 15, 1959, tendered for filing proposed changes in its presently effective rate schedules[1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, dated January 9, 1959.

Purchaser: Transcontinental Gas Pipe Line Corporation.

Rate schedule designation: (1) Supplement No. 3 to Atlantic's FPC Gas Rate Schedule No. 118. (2) Supplement No. 4 to Atlantic's FPC Gas Rate Schedule No. 147. (3) Supplement No. 4 to Atlantic's FPC Gas Rate Schedule No. 150.

Effective date: February 15, 1959 (effective date is the first day after expiration of statutory notice).

In support of the proposed favored-nation rate increase, Atlantic cited the contract provisions and submitted a copy of the purchaser's favored-nation letter. Atlantic states that the contracts were negotiated at arm's length and the increased rate will not result in excessive returns. Atlantic further states that the contract price increase provisions are beneficial to both buyer and seller in providing a low initial price which increases as seller's costs increase.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 3 to Atlantic's FPC Gas Rate Schedule No. 118, Supplement No. 4 to Atlantic's FPC Gas Rate Schedule No. 147, and Supplement No. 4 to Atlantic's FPC Gas Rate Schedule No. 150, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(a) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 3 to Atlantic's FPC Gas Rate Schedule No. 118, Supplement No. 4 to Atlantic's FPC Gas Rate Schedule No. 147, and Supplement No. 4 to Atlantic's FPC Gas Rate Schedule No. 150.

(B) Pending such hearing and decision thereon, said supplements be and they each hereby are suspended and the use thereof deferred until July 15, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1515; Filed, Feb. 19, 1959; 8:46 a.m.]

[Docket No. G-17783]

PHILLIPS PETROLEUM CO.

Order for Hearing and Suspending Proposed Change in Rate

FEBRUARY 13, 1959.

Phillips Petroleum Company (Phillips) on January 22, 1959, tendered for filing a proposed change in its presently effective rate schedule for sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated January 20, 1959.

Purchaser: Colorado Interstate Gas Company.

Rate schedule designation: Supplement No. 4 to Phillips' FPC Gas Rate Schedule No. 240.

Effective date: February 22, 1959 (effective date is the first day following expiration of the required thirty days' notice).

In support of the redetermined rate increase, Phillips states that the price is in accordance with the contract and is no higher than prices currently being received for gas in the area. Phillips also refers to the cost of service data submitted in Docket No. G-1148.

[1] Present rates previously suspended and are in effect subject to refund in Docket No. G-15678.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change and that Supplement No. 4 to Phillips' FPC Gas Rate Schedule No. 240 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 4 to Phillips' FPC Gas Rate Schedule No. 240.

(B) Pending the hearing and decision thereon, said supplement is hereby suspended and the use thereof deferred until July 22, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1516; Filed, Feb. 19, 1959; 8:46 a.m.]

[Docket No. G-17784]

MONTEREY OIL CO.

Order for Hearing and Suspending Proposed Change in Rate

FEBRUARY 13, 1959.

Monterey Oil Company (Monterey) on January 23, 1959, tendered for filing a proposed change in its presently effective rate schedule for sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated January 21, 1959.

Purchaser: Texas Eastern Transmission Corporation.

Rate schedule designation: Supplement No. 12 to Monterey's FPC Gas Rate Schedule No. 2.

Effective date: March 1, 1959 (effective date is that proposed by Monterey).

In support of its tendered rate, Monterey submits copies of the letter agreement redetermining the level of rate and states that the price therein is just and reasonable. Monterey also states that it enjoys no special cost advantages over producers who submitted cost data in the omnibus proceeding (Docket Nos. G-9277, et al.) and that its proposed rate is justified by such cost data.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change and that Supplement No. 12 to Monterey's FPC Gas Rate Schedule No. 2 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 12 to Monterey's FPC Gas Rate Schedule No. 2.

(B) Pending the hearing and decision thereon said supplement is hereby suspended and the use thereof deferred until August 1, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1517; Filed, Feb. 19, 1959; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-1205]

ALUMINUM INDUSTRIES, INC.

Notice of Application To Strike From Listing and Registration, and of Opportunity for Hearing

FEBRUARY 16, 1959.

In the matter of Aluminum Industries, Inc., common stock; File No. 1-1205.

Cincinnati Stock Exchange has made application, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following:

There have been no trades in this issue on the Cincinnati Stock Exchange since July 8, 1955. About 91.5 percent of the shares are owned by Gera Corporation.

Upon receipt of a request, on or before March 4, 1959, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-1526; Filed, Feb. 19, 1959; 8:48 a.m.]

[File No. 68-175]

UNION ELECTRIC CO.

Order Postponing Date of Hearing

FEBRUARY 13, 1959.

The Commission having on February 9, 1959, issued an order for hearing with respect to the proxy solicitation material of Union Electric Company for its 1959 annual stockholders' meeting and having fixed March 2, 1959, as the date for the hearing (Holding Company Act Release No. 13916); and

Union Electric Company having requested that the hearing be postponed; and

It appearing to the Commission that good cause has been shown for the postponement of the hearing:

It is ordered, That said hearing be and the same hereby is postponed until March 5, 1959, and that in all other respects the Commission's order for hearing dated February 9, 1959, shall remain in full force and effect.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-1527; Filed, Feb. 19, 1959; 8:48 a.m.]

[File No. 70-3760]

NEW ENGLAND ELECTRIC SYSTEM ET AL.

Notice of Filing Regarding Issue and Sale of Promissory Notes by Subsidiaries to Banks and to Parent Company

FEBRUARY 13, 1959.

Notice is hereby given that a joint application-declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") by New England Electric System ("NEES"), a registered holding company, and twenty-one of its public-utility subsidiaries ("the borrowing companies"), namely, Attleboro Electric Company ("Attleboro"), Central Massachusetts Gas Company ("Central Mass."), Granite State Electric Company ("Granite"), Lawrence Gas Company ("Lawrence"), Lynn Gas and Electric Company ("Lynn"), Merrimack-Essex Electric Company ("Merrimack"), The Mystic Power Company ("Mystic"), Mystic Valley Gas Company ("Mystic Valley"), The Narragansett Electric Company ("Narragansett"), New England Power Company ("NEPCO"), Northampton Electric Lighting Company ("Northampton"), Northampton Gas Light Company ("Northampton Gas"), North Shore Gas Company ("North Shore"), Northern Berkshire Electric Company ("Northern"), Norwood Gas Company ("Norwood"), Quincy Electric Company ("Quincy"), Southern Berkshire Power & Electric Company ("Southern"), Suburban Electric Company ("Suburban"), Wachusett Gas Company ("Wachusett"), Weymouth Light and Power Company ("Weymouth"), and Worcester County Electric Company ("Worcester"). NEES and the borrowing companies have designated sections 6(a), 7, 10, and 12(f) of the Act and Rules 42(b)(2), 43, 50(a)(2) and 50(a)(3) thereunder as applicable to the proposed transactions, which are summarized as follows:

The borrowing companies propose to issue from time to time through December 31, 1959, unsecured promissory notes to (a) banks in the aggregate principal amount of $87,420,000 and (b) NEES in the aggregate principal amount of $53,810,000 or a total of $141,230,000. The maximum amount of the proposed notes to be outstanding at any one time during the period to December 31, 1959, is stated at $68,885,000. The proceeds of the proposed borrowings are to be used to pay then outstanding notes due to banks and/or to NEES (outstanding in the principal amount of $45,825,000 at January 1, 1959), and to provide new money (estimated at $23,060,000 for the year ending December 31, 1959) for construction expenditures or to reimburse the treasury therefor. The notes will bear interest at not in excess of the prime rate in effect at the time such loans are made, and will mature on or prior to March 31, 1960. Provision will be made for certain subsidiaries to pay their bank indebtedness, in whole or in part, with borrowings from NEES, or vice versa. In the case of notes issued to NEES to prepay notes to banks, the interest rate will be the prime interest rate, but not in excess of the interest rate on the notes being prepaid to the date of their maturity. In the case of notes issued to banks to prepay notes to NEES, if the interest rate exceeds that of the notes to be prepaid, NEES proposes to credit the borrowing company with the difference between the interest rate on the new note to be issued to the bank and the interest rate on the note to be prepaid for the period from the date of the issuance of such new note to the normal maturity date of the note payable to NEES which is to be prepaid.

Each of the borrowing companies proposes that if any permanent financing is done prior to the maturity of the indebtedness to be issued hereunder, it will apply the proceeds therefrom in reduction of, or in total payment of, its note indebtedness then outstanding; that the balance of its note indebtedness then unissued hereunder, if any, will be reduced by the amount, if any, by which the proceeds of such permanent financing exceeds its note indebtedness at the time outstanding; and that the maximum amount of its note indebtedness proposed to be outstanding hereunder will be reduced by the amount of the proceeds obtained by it from such permanent financing.

The following table shows for each borrowing company (1) the aggregate amount of notes proposed to be issued to banks and to NEES, and (2) the maximum amount of notes issued hereunder to be outstanding with banks and with NEES at any one time.

[000's omitted]

Borrowing company	Aggregate amount of notes to be issued		Maximum amount of notes to be outstanding		
	Banks	NEES	Banks	NEES	Banks or NEES
Attleboro		$2,130		$1,135	
Central Mass.	$2,325		$1,225		
Granite	2,700		1,400		
Lawrence	1,200		900		
Lynn	5,200		2,600		
Merrimack	24,450	12,250	2,825		$10,000
Mystic	425		225		
Mystic Valley	2,950		2,350		
Narragansett	11,800		6,400		
NEPCO	19,100		13,300		
North Shore	2,350		1,400		
Northampton		1,910		1,030	
Northampton Gas		1,515		830	
Northern	1,520	2,910			1,520
Norwood		1,850		990	
Quincy	5,450	2,850			2,850
Weymouth		7,550		3,850	
Southern		3,645		1,905	
Suburban	3,200		2,000		
Wachusett	1,550		850		
Worcester	3,200	17,200		6,100	3,200
	87,420	53,810	35,475	15,840	17,570

While no definite arrangements have yet been made by any of the borrowing companies, it is expected that borrowings from banks will be made from any one or more of the following:

The First National Bank of Boston, Boston, Mass.
Second Bank-State Street Trust Company, Boston, Mass.
The Chase Manhattan Bank, New York.
The Hanover Bank, New York.
Irving Trust Company, New York.
The New York Trust Company, New York.
The First National City Bank of New York.
Industrial National Bank of Providence, Providence, R.I.
Rhode Island Hospital Trust Company, Providence, R.I.
First National Bank, Northampton, Mass.
Northampton National Bank, Northampton, Mass.
South Shore National Bank, Quincy, Mass.
Norfolk County Trust Company, Quincy, Mass.
Quincy Trust Company, Quincy, Mass.
Haverhill National Bank, Haverhill, Mass.
The Andover and Merrimac National Bank, Haverhill, Mass.
First National Bank, Adams, Mass.
Greylock National Bank, Adams, Mass.
North Adams National Bank, North Adams, Mass.
North Adams Trust Company, North Adams, Mass.
First National Bank, Malden, Mass.
Malden Trust Company, Malden, Mass.
Middlesex County National Bank, Everett, Mass.
Union National Bank, Lowell, Mass.
Arlington Trust Company, Lawrence, Mass.
Bay State Merchants National Bank, Lawrence, Mass.
Attleboro Trust Company, Attleboro, Mass.
First National Bank, Attleboro, Mass.
Merchants-Warren National Bank, Salem, Mass.
Naumkeag Trust Company, Salem, Mass.
Guaranty Bank & Trust Company, Worcester, Mass.
The Mechanics National Bank of Worcester, Worcester, Mass.
Worcester County National Bank, Worcester, Mass.

Incidental services in connection with the proposed note issues will be performed at cost by New England Power Service Company, an affiliated service company, such cost being estimated at not exceeding $200 for each applicant-declarant.

No further action by any regulatory commission, other than this Commission, is necessary to carry out the proposed transactions. The Public Utilities Commission of New Hampshire has isued an order authorizing the notes proposed to be issued by Granite.

Notice is further given that any interested person may, not later than March 3, 1959, at 5:30 p.m., request the Com-

mission in writing that a hearing be held on such matter, stating the nature of his interest, the reason for such request, and the issues of fact or law, if any, raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date the joint application-declaration as filed or as amended, may be granted and permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-1528; Filed, Feb. 19, 1959; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Rev. S.O. 562, Rev. Taylor's I.C.C. Order 98]

ANN ARBOR RAILROAD CO.

Rerouting or Diversion of Traffic

In the opinion of Charles W. Taylor, Agent, the Ann Arbor Railroad Company, account car ferry out of service and adverse weather and ice conditions is unable to transport traffic offered it for movement via ferry across Lake Michigan between Frankfort, Michigan and Menominee, Michigan: *It is ordered;* That:

(a) Rerouting traffic: The Ann Arbor Railroad Company, and its connections, being unable to transport traffic offered for movement by ferry across Lake Michigan between Frankfort, Michigan and Menominee, Michigan account ferry out of service and adverse weather and ice conditions are hereby authorized to divert and reroute such traffic over any available route to expedite the movement regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad or railroads desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroad or railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 2:00 p.m., February 13, 1959.

(g) Expiration date: This order shall expire at 11:59 p.m., February 28, 1959, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D.C., February 13, 1959.

INTERSTATE COMMERCE COMMISSION, CHARLES W. TAYLOR, *Agent.*

[F.R. Doc. 59-1523; Filed, Feb. 19, 1959; 8:48 a.m.]

[Notice 38]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 17, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 35338. By order of February 12, 1959, the Transfer Board approved the lease for a one year period to Floyd Hill, doing business as Delta Transfer Lines, Jasper, Ala., of Certificate No. MC 22440, issued by the Commission, March 18, 1949, to Kelly Hyche and Curtis Hyche, a partnership, doing business as Delta Transfer Lines, Jasper, Ala., authorizing the transportation of household goods as defined by the Commission, over irregular routes, between Jasper, Ala., and points in Alabama within 25 miles of Jasper, on the one hand, and, on the other, points in Georgia, Mississippi, and Tennessee. Floyd Hill, 107 East 19th Street, Jasper, Ala., for applicants.

No. MC-FC 61921. By order of February 12, 1959, the Transfer Board approved the transfer to Oak Tree Bus Service, Inc., Oak Tree, New Jersey, of a certificate in No. MC 24643, issued September 19, 1957, to Salvatore P. Quagliariello, doing business as Oak Tree Bus Service, Oak Tree, New Jersey, authorizing the transportation of passengers and their baggage, restricted to traffic originating in the territory indicated, in charter operations, over irregular routes, from points in New Jersey, New York, and Pennsylvania, and return. Mr. S. S. Eisen, 140 Cedar Street, New York 6, N.Y.

No. MC-FC 61930. By order of February 12, 1959, the Transfer Board approved the transfer to Quaker Freight Lines, Inc., 736 White Horse Pike, Audubon, New Jersey, of a certificate in No. MC 1024, issued July 18, 1958, to F & R Freight Lines, Inc., 70 South Park Street, Elizabeth, New Jersey, authorizing the transportation of general commodities, including household goods, as defined by the Commission, and excluding commodities in bulk and other specified commodities, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in a specified area in Connecticut, New York, New Jersey, and Pennsylvania.

No. MC-FC 61940. By order of February 12, 1959, the Transfer Board approved the transfer to William E. Lewis, Inc., Houston, Texas, of a certificate in No. MC 99314 Sub 1, issued February 29, 1956, to Prather Truck Line, Inc., Houston, Texas, authorizing the transportation of machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking-up thereof, over irregular routes, between points in Louisiana, Oklahoma, and Texas. Mr. Charles D. Mathews, Looney, Clark, Mathews, Thomas & Harris, Brown Building, Austin, Tex.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 59-1522; Filed, Feb. 19, 1959; 8:47 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

BERTHE LEVY

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Mrs. Berthe Levy, Paris, France; Claim No. 14133; $831.22 in the Treasury of the United States. Vesting Order No. 565.

Executed at Washington, D.C., on February 13, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1533; Filed, Feb. 19, 1959; 8:49 a.m.]

LA SOUDURE ELECTRIQUE AUTOGENE

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D.C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

La Soudure Electrique Autogene, Brussels, Belgium; Claim No. 42931; property described in Vesting Order No. 675, (8 F.R. 5029, April 17, 1943), relating to United States Letters Patent Nos. 1,754,116, 1,888,453, 1,898,427, 1,911,886, 1,920,148, 1,936,010, 1,997,234, 2,074,276 and 2,239,577. Vesting Order No. 675.

Executed at Washington, D.C., on February 12, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1534; Filed, Feb. 19, 1959; 8:49 a.m.]

SHIGERU UYEDA

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Shigeru Uyeda, Akegawa Housing Area, Osaka Gas Co., Ltd., 123 Aza-Kashiwa-mura, Naka-Kawachi-gun, Osaka Prefecture, Japan; Claim No. 42477; $7,872.00 in the Treasury of the United States. Vesting Order No. 9175.

Executed at Washington, D.C., on February 12, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1535; Filed, Feb. 19, 1959; 8:49 a.m.]

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